

**Memorandum of Understanding between  
the Department for Work and Pensions,  
the Pensions Regulator  
and  
the Pension Protection Fund**

**This version signed and dated –**

**February 2008**

**The Pensions  
Regulator** 

**DWP** Department for  
Work and Pensions

**Pension  
Protection  
Fund**

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## Purpose

1. This memorandum of understanding establishes a trilateral framework for co-operation between the Department for Work and Pensions, the Pensions Regulator and the Board of the Pension Protection Fund in the field of pension regulation and protection. It sets out the role of each body and explains how they will work together towards the common objective of pension security. The division of responsibilities is based on four guiding principles:
  - clear **accountability**. Each body must be accountable for its actions, so each must have unambiguous and well-defined responsibilities;
  - **transparency**. Parliament, the pensions community and the public must know what each body is responsible for;
  - **no duplication**. Each body must have a clearly defined role, to avoid second guessing, inefficiency and the duplication of effort. This will help ensure proper accountability; and
  - regular and appropriate **information exchange**. This will help each body to discharge its responsibilities as efficiently and effectively as possible.

## Responsibilities

### **Department for Work and Pensions**

2. The Department provides the overarching regulatory and legal framework that governs the operation of the Pensions Regulator and the Board of the Pension Protection Fund.
3. The Department has a primary role in the Stewardship of the Pensions Regulator and the Board of the Pension Protection Fund. It will discharge this responsibility through:
  - **the scrutiny and approval of strategic and annual business plans;**

- **receiving reports on performance and outcome measurements;**
  - **receiving annual and quarterly financial reports; and**
  - **exchanging information and analysis of trends and risk.**
4. The mechanics of this stewardship role are set out in the Management Statement and Financial Memoranda (called the Framework Document from April 2008) that are in place between the Department and the Pensions Regulator and the Board of the Pension Protection Fund respectively.
5. The Department has *no responsibilities* in the operational activities of the Pensions Regulator and the Board of the Pension Protection Fund and shall not be involved in them. However there may be circumstances where the Department will need to be informed by the Pensions Regulator and the Board of the Pension Protection Fund about potential issues or cases that raise significant concerns or will attract significant media scrutiny. It will be for the Pensions Regulator and the Board of the Pension Protection Fund to decide whether the Department needs to be informed (see paragraphs 8 and 13 below).

## **The Pensions Regulator**

6. Overall the Pensions Regulator has responsibility for all 'work-based' pension schemes<sup>1</sup>. In particular this includes operational responsibility for:
- regulating occupational pension schemes, including their funding, governance and administration;
  - regulating, in respect of stakeholder pensions, registration, designation, and compliance with the charge cap, as well as the other duties imposed on employers, trustees and managers in relation to all work-based pension schemes e.g. timely payment of contributions;

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<sup>1</sup> As defined in s.5(3) of the Pensions Act 2004

- regulating certain aspects, including administration, of work-based personal pension schemes;
  - providing information, education and assistance in relation to work-based pension schemes to:
    - those involved in the administration of work-based pensions;
    - those who advise trustees and managers on the operation of work based pensions;
    - employers; and
    - those who advise employers; and,
  - regulating the provision of information and advice by employers for employees about pensions and saving for retirement.
7. The Pensions Regulator is also responsible for collection of the General Levy and the PPF Administration levy on behalf of the Secretary of State for Work and Pensions.
8. The Pensions Regulator will alert<sup>2</sup> the Department (and in the case of defined - benefit or hybrid schemes, the Board of the Pension Protection Fund) in circumstances where it has identified and has concerns about any:
- serious problem for large numbers of pension schemes;
  - significant issue that crosses national boundaries;
  - problem that may require a change of legislation;
  - issues that compromise the independence of the Pensions Regulator; and
  - other issues that appear to the Pensions Regulator to have a high public or media profile.

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<sup>2</sup> Unless otherwise prevented by law

9. One of the Pensions Regulator's statutory objectives is to reduce the risk of situations arising which may lead to calls on the Pension Protection Fund. Consistent with this objective, and with its medium term strategy, the Pensions Regulator will work to:
  - strengthen the funding of defined - benefit schemes;
  - use relevant powers to make good scheme funding shortfalls where an employer may be seeking to avoid its pension scheme liabilities;
  - improve the governance of work-based pension schemes; and
  - be consistent in its operation of the clearance procedure.
  
10. Where the Pensions Regulator becomes aware of situations where there is doubt over whether the business is a going concern, the Pensions Regulator and the Board of the Pension Protection Fund will work closely together to ensure the best outcome with regard to the respective objectives of each body.

### **The Board of the Pension Protection Fund**

11. The role of the Board of the Pension Protection Fund is to pay compensation to members of eligible pension schemes<sup>3</sup>.
  
12. In operational terms this means:
  - assessing whether eligible schemes should transfer into the Pension Protection Fund;
  - helping trustees to manage schemes through an assessment period;
  - taking on schemes and paying compensation to people;
  - setting, calculating and collecting pension protection levies; and
  - prudent management of assets and liabilities.

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<sup>3</sup> As defined in s.126 of the Pensions Act 2004

13. The Board of the Pension Protection Fund will alert<sup>4</sup> the Department and the Pensions Regulator in circumstances where it has identified and has concerns about any:
- serious problem for large numbers of pension schemes;
  - significant issue that crosses national boundaries;
  - problem that may require a change of legislation;
  - issues that compromise the independence of the Board of the Pension Protection Fund; and
  - other issue that appears to the Board of the Pension Protection Fund to have a high public or media profile

## **Co-operation, co-ordination and exchange of information**

### **Co-operation**

14. The Director General of Pensions for the Department for Work and Pensions will meet regularly with the respective Chairs of the Pensions Regulator and the Board of the Pension Protection Fund. In addition there will be trilateral meetings between the Director General and both Chairs every 6 months or as required.
15. The Department will chair a senior forum (the Tripartite), attended by the Chairs and Chief Executives of the Pensions Regulator and the Board of the Pension Protection Fund. This forum will discuss and debate issues of concern which may impact upon the Department's strategic objectives for greater pension protection and security. Terms of reference for this group are at Annex A. However, at all times, responsibility for operational decisions made rests with the Pensions Regulator and the Board of the Pension Protection Fund.
16. The Department will chair a working level forum (the Junior Tripartite) to deal with cross-cutting policy issues and also facilitate the exchange of appropriate information between the Department, the Pensions Regulator and the Board of

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<sup>4</sup> Unless otherwise prevented by law

the Pension Protection Fund. This group may also sponsor tripartite working groups tasked with taking specific issues forward and will feed into and support any activities arising from the work of the senior Tripartite set out above (see para 15). Terms of reference for this group are at Annex B.

17. The Chairs, or Chief Executives as appropriate, will attend the Department's Pensions Client Board every six months. They will report on the progress made by their respective organisations and discuss the key issues they face.
18. The Chairs of the Pensions Regulator and the Board of the Pension Protection Fund will attend each other's Board Meetings to embed closer working between the two bodies. When the Chair is unavailable it has been agreed that the Chief Executive will attend instead.
19. There will be at least one joint meeting of the full boards of the Pensions Regulator and the Board of the Pension Protection Fund on an annual basis. At all levels, there will be close and regular contact between the two organisations. The Pensions Regulator and the Board of the Pension Protection Fund will ensure that competencies and skills are pooled where appropriate. Effective co-operation and working in partnership will be a core commitment of both organisations reflecting the central theme of the 2007 Institutional Review.
20. The Chief Executives of the Pension Regulator and the Board of the Pension Protection Fund are members of the Pensions Institutions Forum. This Forum, which was established following the recommendation in the Institutional Review (2007) provides a central role to promote effective co-ordination across institutional boundaries.

## Co-ordination

### *Working together*

21. The Pensions Regulator and the Board of the Pension Protection Fund will inform the other about changes in their respective policies and operational practices which are likely to have a bearing on the responsibilities of the other. A Memorandum of Understanding signed by the Chief Executives of the Pensions Regulator and the Board of the Pension Protection Fund (underpinned by Service Level Agreements on specific areas) sets out the processes to be adopted to ensure that this takes place. Additionally the Pensions Regulator and Pension Protection Fund may draw up agreed principles in support of **joint** organisational development initiatives. These will be covered by an exchange of letters between the Chief Executives.

### *Operating Processes and Provision of Services*

22. In some cases it will be more efficient or effective for a service to be provided by the Pensions Regulator to the Board of the Pension Protection Fund, or vice versa, rather than for both bodies to meet their own needs separately. In these cases, service level agreements between the two institutions will set out the nature of the service to be provided, together with agreed standards, details of timing, charges (if any) and notice periods.

### *Public Awareness*

23. The Pensions Regulator and the Board of the Pension Protection Fund will work closely together to ensure that areas of common interest, as well as their separate activities, promoting understanding and raising awareness with the general public and the pension community, compliment each other to achieve maximum effectiveness. Through working together effectively, both organisations will continue to work towards the objective of improving public confidence in pensions.

24. The Pensions Regulator and the Board of the Pension Protection Fund will publish report(s) to be produced annually under joint branding (currently titled The Purple Book) to help increase knowledge and understanding of the risks facing UK-based defined benefit pension schemes.

## **Exchange of Information**

25. The Department for Work and Pensions will inform the Pensions Regulator and the Board of Pension Protection Fund of relevant changes to legislation in accordance with an agreed process.
26. Through the exercise of its statutory responsibilities, the Pensions Regulator will gather a wide range of information and data on the schemes it registers and regulates. It will collect, hold and share data in accordance with the provisions of the Data Protection Act, the Pensions Act 2004 and the Freedom of Information Act.
27. The Pension Protection Fund is responsible for ensuring the collection of the data and information which it needs to discharge its functions.
28. However, the Pensions Regulator and the Board of the Pension Protection Fund will work together to avoid separate collection of the same data, in order to minimise the burden on schemes. Where both need access to the same information, they will reach agreement as to who should collect it, and how it should be transmitted to the other. In making such decisions, consideration will be given to the timing of any data requirements and the state of readiness of the available infrastructure to store and transmit data.
29. The nature of service, its standards, timeliness and costs relating to the exchange of information is covered in a

service level agreement agreed between the Pensions Regulator and the Board of the Pension Protection Fund.

- 30. In some cases, services may be outsourced to other agencies either permanently or temporarily to overcome short term operational constraints. Information gathered under these arrangements is subject to the same information sharing requirements as data collected by the Pensions Regulator and the Board of the Pension Protection Fund.
- 31. In addition to statistical data both public bodies will provide information on key themes and trends to the Department for Work and Pensions.

**Review of Memorandum**

- 32. This memorandum will be reviewed each year. In addition, a review may take place where there are any significant changes to policy, legislation, or where there has been a change in the office of the Director General of Strategy and Pensions, or a change of Chair or Chief Executive of either the Pensions Regulator or the Board of the Pension Protection Fund.

**Formal commitment to Memorandum**

| Signed  | Signed  | Signed   |
|---|---|--|
|  |  |  |
| <b>Director General<br/>for Strategy and<br/>Pensions<br/>DWP</b>                   | <b>Chair<br/>The Pensions<br/>Regulator</b>   | <b>Chair<br/>The Board of the<br/>Pension Protection<br/>Fund</b>                    |
|   |  |  |
| <b>Date</b> 20/1/08   | <b>Date</b> 5/2/08  | <b>Date</b> 6/2/08   |

## **Senior Tripartite – Terms of Reference**

### **Scope and objectives**

The forum will:

- manage a coherent, effective tripartite strategic risk framework;
- discuss and debate topical issues which impact upon the Department's objectives for greater pension protection and security;
- share information about strategic cross-cutting developments; and
- commission the Junior Tripartite with specific areas of work emanating from these discussions.

The forum will not:

- routinely act as a dispute resolution body;
- deal with bi-lateral issues; or
- have an oversight function for any ongoing operational issues.

### **Framework**

Logistics:

- quarterly meetings at alternate locations;
- Department for Work and Pensions to chair and provide secretariat; and
- agenda determined in consultation with the Pensions Regulator and the Board of the Pension Protection Fund

Core membership to include:

- Department for Work and Pensions – Director General, Strategy and Pensions; Director of Pensions Analysis and Stewardship; Deputy Director Pension Protection and Stewardship Division
- the Pensions Regulator – Chair and Chief Executive; and
- the Pension Protection Fund – Chair and Chief Executive.

### **Agenda Standing Items**

- active risk review (updates);
- risk register overview/discussion; and
- ad hoc issues

### **Junior (working Level) Tripartite Terms of Reference**

The group will:

- act as the working level forum for Department for Work and Pensions to consider with the Pensions Regulator and the Board of the Pension Protection Fund issues which may impact on the department's strategic objectives for greater protection and security;
- support the Tripartite stewardship meetings and take forward delegated action arising from those meetings as necessary;
- facilitate the exchange of policy and generic patterns of operational information and analysis of trends and risks between the three bodies, in particular to help the policy planning process of Tripartite members;
- act as a forum to resolve cross-cutting issues and to ensure effective working relationships are maintained; and
- sponsor specific issue tripartite working groups.

#### **Logistical issues:**

- quarterly meetings (shadowing the full 'senior' Tripartite – by being held between two and four weeks later);
- standing agenda item to include action points from 'senior' Tripartite; and
- Department for Work and Pensions to chair Junior Tripartite and provide secretariat and to determine the agenda in consultation with the Pensions Regulator and Pension Protection Fund.

#### **Core membership of the Junior Tripartite to include:**

- Department for Work and Pensions - Deputy Director, Pensions Protection and Stewardship Division, Head of Pension Protection Fund and the Pensions Regulator Policy & Legislation and Head of Stewardship;
- the Pensions Regulator – one Executive Director; and
- the Board of the Pension Protection Fund – one Executive Director.