

REVIEW OF PENSIONS INSTITUTIONS

The Pensions Regulator Tribunal (tPRT) contribution to Institutional Review

1. How is the Pensions Regulator Tribunal currently functioning?

- Considered that everything was generally working as it should and did not feel any anything additional needed to be bolted onto PRT. So far three cases had reached PRT all stemming from the days of Opra: two had been completed and the third had arrived that day.
- The Tribunal was an additional decision taker: 'standing behind' TPR's Determinations panel, reconsidering, deciding what course to take and referring the case back to TPR with directions which they had to implement: varying, revoking or substituting the original decision as appropriate.
- PRT arrangements were modelled substantially on the Financial Services and Markets Tribunals (FSMT), established under the FSMA 2000 to hear references arising from decision notices issued by the FSA. PRT had close links with these Tribunals: all PRT Chairs were also FSMT Chairs, the Tribunals shared premises, support functions etc. FSMT had built up considerable experience.
- PRT had an imaginative jurisdiction, wider than courts since it could substitute its own decision, whereas courts could only consider whether the regulator had used proper procedures.
- Tribunal procedures were similar to those of courts, with formal proceedings, written statements of case, rigorous disclosure requirements and oral hearings. Tribunal findings of fact could not be appealed, but points of law could be taken to the Court of Appeal at the discretion of that court.
- DCA acts as an independent appointer of the members of the Tribunal.
- Tribunal members had undertaken training eg on the pensions landscape
- The Tribunal had a role in giving feedback to the Regulator / Determinations Panel
- During passage of the Pensions Act 2004, considerable attention had been given to Tribunal jurisdiction and functions; no gaps had emerged to date.

2. How are the other institutions under review currently functioning?

- The Tribunal's interaction with other bodies under review - and hence ability to comment - was entirely limited to the Pensions Regulator.
- The procedures meant PRT and TPR were at arms' length. Experiences so far in working with TPR had been positive.
- Ombudsman provisions provided a less formal route than Tribunals, and were designed primarily for individuals rather than for pensions organisations / professionals.
- The Pensions Ombudsman had some similar powers to Pensions Regulator Tribunals, in making binding determinations, which could be substituted for the institution's original decision, and with appeals on a point of law. For FOS

by comparison there was not an appeal route: decisions were subject to judicial review.

3. How PRT feel the interactions between other institutions are working

- PRT had no comments on this aspect.

4. What further regulatory developments are key to the configuration of institutional functions including those from Europe and beyond?

- PRT did not have a particular locus on this aspect.

5. What is your view of the capital market solutions that are currently being mooted?

- PRT did not have a particular locus on this aspect.

6. What suggestions do you have to improve the configuration of functions and responsibilities?

- If changes were proposed by others to TPR / FSA boundaries, it would be unlikely to impact on the relevant Tribunals overall, given the close PRT / FSMT arrangements.
- If changes were proposed by others to PPF / TPR boundaries, this would require very careful thought:
 - particularly since the bodies had such different functions, and PPF 'picked up the bill' at the end:
 - changes might create conflicts of interest.

Annex A

Particular aspects on which Paul Thornton sought initial views – with a particular focus on provision of advice, mediation, dispute resolution or compensation:

1. How you consider your institution is currently functioning in its work-based pensions role.
 - What you consider are the shortcomings, if any, in the present arrangements, including gaps, overlap, duplication with other institutions, inappropriate conflict of interest or inefficiencies.
 - What you consider are the strengths of the present arrangements.
2. How you consider the other institutions under review are currently functioning.
 - What you consider are the shortcomings, if any, in the present arrangements.
 - What you consider are the strengths in the current arrangements.
3. How you consider the interactions are working between the institutions
 - Is there evidence to demonstrate that the current arrangements work well or do not work well?
 - Is there evidence of effective joint working, clear distinction of responsibilities and avoidance of possible conflict of interests?
 - Is there evidence to suggest that the current boundaries of responsibilities and number of organisations are confusing to customers?
4. What future regulatory developments are key to the configuration of institutional functions, including those from Europe and beyond?
5. What suggestions do you have - taking 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?
6. What is your view of the capital market solutions that are currently being mooted?