House of Commons
Work and Pensions Committee

Appointment of the Pensions Ombudsman and the Pension Protection Fund Ombudsman

Third Report of Session 2014–15

Report, together with formal minutes relating to the report

Ordered by the House of Commons
to be printed 11 February 2015
The Work and Pensions Committee

The Work and Pensions Committee is appointed by the House of Commons to examine the expenditure, administration, and policy of the Department for Work and Pensions and its associated public bodies.

Current membership

Dame Anne Begg MP (Labour, Aberdeen South) (Chair)
Debbie Abrahams MP (Labour, Oldham East and Saddleworth)
Graham Evans MP (Conservative, Weaver Vale)
Sheila Gilmore MP (Labour, Edinburgh East)
Glenda Jackson MP (Labour, Hampstead and Kilburn)
Kwasi Kwarteng MP (Conservative, Spelthorne)
Paul Maynard MP (Conservative, Blackpool North and Cleveleys)
Nigel Mills MP (Conservative, Amber Valley)
Anne Marie Morris MP (Conservative, Newton Abbot)
Teresa Pearce MP (Labour, Erith and Thamesmead)
Mr Michael Thornton MP (Liberal Democrat, Eastleigh)

The following Members were also members of the Committee during the Parliament:

Harriett Baldwin MP (Conservative, West Worcestershire), Andrew Bingham MP (Conservative, High Peak), Karen Bradley MP (Conservative, Staffordshire Moorlands), Ms Karen Buck MP (Labour, Westminster North), Mr Aidan Burley MP (Conservative, Cannock Chase), Alex Cunningham MP (Labour, Stockton North), Margaret Curran MP (Labour, Glasgow East), Jane Ellison MP (Conservative, Battersea), Mike Freer MP (Conservative, Finchley and Golders Green), Richard Graham MP (Conservative, Gloucester), Kate Green MP (Labour, Stretford and Urmston), Oliver Heald MP (Conservative, North East Hertfordshire), Sajid Javid MP (Conservative, Bromsgrove), Brandon Lewis MP (Conservative, Great Yarmouth), Stephen Lloyd MP (Liberal Democrat, Eastbourne) and Shabana Mahmood MP (Labour, Birmingham, Ladywood), Dame Angela Watkinson MP (Conservative, Hornchurch and Upminster).

Powers

The committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the internet via www.parliament.uk.

Publication

Committee reports are published on the Committee's website at www.parliament.uk/workpencom and by The Stationery Office by Order of the House. Evidence relating to this report is published on the Committee's website at www.parliament.uk/workpencom.

Committee staff

The current staff of the Committee are Carol Oxborough (Clerk), Katharine Gray (Second Clerk), James Clarke (Committee Specialist), Emma Sawyer (Senior Committee Assistant), Nathan Hug (Committee Support Assistant) and Gary Calder (Media Officer).

Contacts

All correspondence should be addressed to the Clerk of the Work and Pensions Committee, House of Commons, 14 Tothill Street, London SW1H 9NB. The telephone number for general enquiries is 020 7219 2180; the Committee’s email address is workpencom@parliament.uk.
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1 Introduction

1. In 2008, the Liaison Committee and the Government agreed a process for departmental select committees to undertake pre-appointment hearings in which they examine the suitability of the Government’s preferred candidate for certain public posts. The purpose is to test the individual’s independence and expertise, consider any potential conflicts of interest and explore how the individual intends to undertake the job, including his or her accountability to the Committee.1

2. Select committees do not have the power to veto appointments. However, the Minister is expected to consider relevant observations before proceeding with an appointment.2

3. The pre-appointment hearing for the posts of Pensions Ombudsman and Pension Protection Fund Ombudsman (held by the same individual) falls within the remit of the Work and Pensions Committee.3

4. On 15 October 2014 the Minister for Pensions informed us that Tony King, the current Pensions Ombudsman and Pension Protection Fund Ombudsman, would be stepping down in spring 2015.4 He set out the recruitment exercise that would be followed to select the new Ombudsman and invited us to undertake pre-appointment scrutiny of the preferred candidate, in accordance with the agreed arrangements. The Department for Work and Pensions (DWP) launched the recruitment process on 29 November 2014. The Minister notified us of the name of the preferred candidate on 3 February 2015.

5. In announcing the selection process, DWP also indicated that a recruitment exercise would be undertaken for the post of Deputy Pensions Ombudsman (and Deputy Pension Protection Fund Ombudsman). This is a part-time role and is not subject to a pre-appointment hearing.5

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1 Liaison Committee, First Report of Session 2007–08, Pre-appointment hearings by select committees, HC 384; and First Special Report of Session 2007–08, Pre-appointment hearings by select committees: Government Response to the Committee’s First Report of Session 2007–08, HC 594
2 Liaison Committee guidelines for select committees holding pre-appointment hearings, 27 November 2013, para 5
3 Cabinet Office Guidance: pre-appointment scrutiny by House of Commons select committees, November 2011, p 11. The other post which falls within the Committee’s remit is the Chair of the Social Security Advisory Committee.
4 Letter to the Chair of the Committee from the Minister for Pensions, 15 October 2014
2 The Pensions Ombudsman and the Pension Protection Fund Ombudsman

6. The Pensions Ombudsman investigates complaints regarding occupational and personal pension schemes and its decisions are final, binding and enforceable in court. The Pension Protection Fund Ombudsman handles complaints and “reviewable matters” regarding the Pension Protection Fund (PPF) and appeals against decisions of the Financial Assistance Scheme (FAS). The combined office is a “Tribunal Non Departmental Public Body” funded through grant-in-aid from DWP. It received £3.2 million in funding in 2013/14.6

7. The Pensions Ombudsman appointment is made under Section 145 of the Pension Schemes Act 1993 and the Pension Protection Fund Ombudsman under Section 209 of the Pensions Act 2004.7 It is a full time role and the advertised remuneration is £130,875.8

8. The key responsibilities of the post are set out as follows:

- Investigating and determining pensions complaints;
- Investigating and determining disputes concerning the PPF;
- Hearing appeals against decisions made by the FAS manager;
- Maintaining a high standard of decision making both in terms of personal decisions and in cases resolved by staff;
- Setting the strategic direction for the organisation, taking responsibility for managing staff and the organisation’s performance, ensuring it delivers its objectives in a cost effective, efficient way;
- Building constructive and effective relationships with external and internal stakeholders including DWP and its Ministers; and
- As Accounting Officer, being responsible for regularity of the public finances for which he or she is accountable and their effective use.

9. The Framework document between the Pensions Ombudsman and Pension Protection Fund Ombudsman and the DWP sets out the responsibilities in further detail.9 The essential criteria for applicants are set out in the extract from the DWP candidate information pack at Appendix 2 to this report. These include:

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7 Pension Schemes Act 1993, Section 145, Pensions Act 2004, Section 209
9 DWP and PPFO, Framework document between the Pensions Ombudsman and Pension Protection Ombudsman and the Department for Work and Pensions, 1 August 2014
• Experience of: dispute resolution or adjudication; working at a senior level in the public or private sector; and making decisions requiring the analysis of complex issues with possibly significant legal and financial consequences;

• Excellent stakeholder management and communication skills, in particular the ability to engage and build effective relationships quickly with a wide range of stakeholders;

• Strong leadership capability with a clear sense of direction and the ability to work co-operatively with others.

10. On 3 February 2015 the Minister informed us that Anthony Arter was the Secretary of State’s preferred candidate to replace Mr King as Pensions Ombudsman and Pension Protection Fund Ombudsman. Mr Arter’s CV and the letter covering his application for the posts are set out in Appendix 1 to this report.
11. We conducted a pre-appointment hearing with Mr Arter on 11 February 2015. The transcript of the oral evidence session has been published on our website.10

12. We are pleased to endorse Mr Arter’s appointment to the post of Pensions Ombudsman and Pension Protection Fund Ombudsman. Mr Arter provided convincing evidence of his suitability for the post in response to our questions. His knowledge and understanding of pensions, his experience of dealing with contentious and complex issues, and his aptitude for management and leadership, are well-established and will be invaluable in this role. We look forward to the Pensions Ombudsman Service continuing to provide the important function of pension dispute resolution, to a high standard, under Mr Arter’s direction.
Appendix 1: Candidate’s CV and letter covering his application

CV

Profile

I am presently a Consultant at Eversheds LLP. On 30 April 2014 I retired as Eversheds’ London Senior Partner. I am a pensions lawyer and have acted for 40+ pensions schemes, on behalf of trustees and companies. The schemes include: British Airways; John Lewis; Railways Pension Scheme; Volkswagen; Everything Everywhere, and Sainsburys. I was a director of Eversheds’ Trustee Company–Bridge Trustees Limited–and I continue to be Chairman of the Trustee Board of the FMC Chemicals Pension Fund. I am an independent member on the Pensions Management Institute Committee overseeing their Accredited Adviser Programme. I own a small children’s day nursery.

For 8 years I was head of the Eversheds’ Pension Group consisting of 16 partners and 60 pension lawyers, one of the largest in the UK.

As Eversheds’ London Senior Partner I was responsible for approximately 600 staff and 100 partners.

I have been involved with CR activities since 2002 and was a member of the Business in the Community London Advisory Board 2009–2014. Each year I have led ‘Give and Gain Day’, an employee volunteering day which in 2013 attracted 12,000+ volunteers from 300 companies.

In 2009 I was appointed by HRH Prince Charles as his BiTC London Ambassador for Volunteering.

Education and Career


Most of my career was spent attached to Special Branch. In 1985 I won a Home Office Scholarship to read law at Jesus College, Cambridge.

1988  MA Cantab 2:1 Law
1993–1995  Trainee solicitor
1995–2001  Solicitor
1999  Formed Little Steps Ltd and established a Children’s Day Nursery in St Albans
2001–2014  Partner Eversheds
2005–2013  Eversheds’ Head of Pensions
2005–2014  Director of Eversheds’ Trustee Company–Bridge Trustees Ltd
2009–2014  London Senior Partner
2008–2010  Elected to the Main Committee of the Association of Pension Lawyers
2008–2014  Member of the CBI Pensions Panel
2008       Appointed to the Trustee Board of the FMC Chemicals Pension Plan
           becoming Chairman in 2009
2009–2014  Joined the BiTC London Advisory Board
2012       Appointed independent member of the Pensions Management Institute
           Accredited Adviser Programme Committee
30.04.2014  Retired from Eversheds’ Partnership
01.05.2014  Consultant Eversheds LLP

Letter covering application from Mr Anthony Arter, 12 December 2014

Application for appointment either, as the Pensions Ombudsman and the Pension Protection Fund Ombudsman, or as the Deputy Pensions Ombudsman and the Deputy Pensions Protection Fund Ombudsman

I wish to apply for appointment as either, the Pensions Ombudsman and the Pensions Protection Fund Ombudsman, or the Deputy Pensions Ombudsman and the Deputy Pensions Protection Fund Ombudsman, referred to for the purposes of this application as the ‘PO’ and the ‘DPO’ respectively.

I believe I have the necessary skills and experience required for the role of either position: senior leadership and management experience in two large very different organisations; trusteeship; an understanding of working with Government; expertise in pensions law and complex legal issues; dispute resolution; budgetary control; and the experience and the necessary interpersonal and collegiate skills required to resolve disputes and work with individuals and organisations at all levels.

1. Experience of dispute resolution or adjudication

As a pensions partner representing mainly trustees, but also companies and Government, I have advised on many individual disputes and have resolved a large number without the intervention of the Pensions Ombudsman. These have been varied, for example: underpayment or overpayment of benefits; administrative errors; and discretions not properly exercised.
Also, as Eversheds’ former London Senior Partner and head of its pensions practice, I have dealt with a number of internal complaints. For example, a complicated complaint concerning a partner, which was lodged by a secretary and several junior staff.

2. Experience of working at a senior level in the private or public sector

I have considerable experience gained at a senior level in disparate types of organisations. My first was as a police officer through various ranks up to Detective Superintendent when amongst other duties I was staff officer to the Assistant Commissioner Specialist Operations.

As a pension partner in charge of the Eversheds’ pensions practice with 16 partners and 60 staff and also as the London Senior Partner with 100 partners and 600 staff, I have many years experience working with others at a senior level to ensure a cohesive relationship across practice areas and sectors.

3. Experience of making decisions requiring the analysis of complex issues with possibly significant legal and financial consequences

There are many but one example was advising the BA trustees. BA have two defined benefit trusts operating as one and a defined contribution trust. The DB trusts have a combined value of approximately £17bn, and a very large pensions deficit compared to the size of the company. The two DB trusts have common appointed BA trustees but separate member nominated ones representing, a pensioner pressure group, unions, and different employment categories. I successfully advised the trustees for a period of 10+ years, winning two re-tenders. My interpersonal skills were key to ensuring the trustees acted appropriately in spite of external pressures.

4. Ability to work autonomously on complex issues

Throughout my professional life I have worked, either alone, or in charge of a team, investigating many complex issues. During my career in the Police Service, I undertook challenging investigations into terrorist crime and international criminal drug syndicates.

On becoming a pensions partner I won many competitive tenders and was appointed by the trustees and companies of a variety of pension trusts, including BA, John Lewis, Nestlé and Volkswagen. I retained my clients through re-tenders because of my ability to interpret and advise on legislative changes and complex pension issues.

5. Proven ability in weighing evidence, setting out reasoned decisions and understanding principles of legislation

I have spent much of my professional life considering the veracity of evidence, whether as a police officer, or as a solicitor. I have relevant experience dealing with many individual complaints and investigating whether they are justified. I have advised trustees and investigated a variety of individual complaints, often settling the particular issue without it progressing to the Pensions Ombudsman. I have regularly advised members of my pension team when dealing with pension disputes.
6. Excellent stakeholder management and communication skills

One of the reasons I was chosen to be Eversheds’ London Senior Partner was because of my proven management, communication and interpersonal skills, which I had demonstrated in building its pensions practice over a period of eight years to become one of the largest of any law firm with a cohesive team across 6 UK offices and a turnover of £16m.

7. Ability to engage and build effective relationships quickly with a wide range of stakeholders

Please see my response under heading 2 and 6 above. Also, as Prince Charles’ London Ambassador for volunteering, I established relationships across a large number of organisations and co-ordinated a major annual volunteering event–Business in the Community Give and Gain Day.

8. Strong leadership capability with a clear sense of direction and the ability to work co-operatively with others

Please see my response under heading 6 above.

9. Experience in setting the strategic direction for an organisation, including managing staff and organisational performance

As head of the Eversheds’ pension practice with 16 partners and 60 pension lawyers, I negotiated the budget each year and set team and individual objectives. I managed the partners’ and the team’s performance ensuring objectives were met or exceeded. I have also established a children’s day nursery which I have grown over a period of 15 years.

10. Up to date knowledge of pensions law and practice

As a senior pensions partner until 30 April this year, and as the Chairman of a pensions trust, I have practised and advised on pensions law for many years. I have lectured, run training sessions and drafted pension trust documents. I believe I have the necessary knowledge and experience to fulfil the role of PO or DPO.

11. Knowledge of the environment in which the public sector operates

As the pensions adviser to the DfT in respect of the Railways Pension Scheme and franchises for 10 plus years, I have had considerable experience of the way in which government departments operate. I have worked with Parliamentary Counsel concerning legislative changes and I have prepared draft answers for Ministers.

12. Understanding of the role of an ombudsman or experience of resolving complaints from consumers/members of the public

I have a clear understanding and appreciation of the role and independence of an Ombudsman. It is a vital role and one which if I were appointed would ensure was upheld.
As I have described above I have considerable experience in resolving individual pension complaints. Please see headings 1 and 5 above.

13. Understanding of and commitment to promoting high standards of customer service to members of the public

I have a proven track record witnessed by my long retention of major clients for ensuring that deadlines are met and providing personally, and also through my team, a consistent and exemplary service. I recognise the importance of retaining public confidence and also the relationship with those involved in the provision of pensions including, DWP, FCA, and the Pensions Regulator.

I really welcome the opportunity to be appointed as either the PO or the DPO and to build on the excellent platform established by Tony King and Jane Irvine.
Appendix 2: Extract from DWP candidate information pack

About the Pensions Ombudsman

The Pensions Ombudsman investigates and determines complaints and disputes about the way that occupational and personal pension schemes are run. The Pension Protection Fund Ombudsman considers decisions made by the Pension Protection Fund (PPF) Board under the PPF’s internal procedures and decides on appeals against decisions by the Department for Work and Pensions (DWP) Financial Assistance Scheme. Although the roles are provided for separately in legislation, they are held by one post holder. Throughout this document the term ‘PO’ will therefore cover both roles.

The PO provides an accessible service for dealing with pensions complaints. Determinations are final and binding on all parties, subject only to appeal in the High Court on a point of law. Services are provided free of charge.

In recent years the office has seen a steady increase in business and has worked hard to keep pace with this. There is every reason to believe that this will continue to be a major challenge for the organisation.

The PO is a statutory tribunal and non-departmental public body (NDPB) sponsored by the DWP.

The role of the Ombudsman

The role offers a challenging mix of complex case work and the opportunity to lead an independent, customer focused organisation. The Ombudsman is responsible for oversight of the office and casework management as well as making decisions on individual cases.

Key responsibilities of the post include:

- Investigating and determining pensions complaints.
- Investigating and determining disputes concerning the PPF.
- Hearing appeals against decisions made by the Financial Assistance Scheme manager.
- Maintaining a high standard of decision making both in terms of personal decisions and in cases resolved by staff.
- Setting the strategic direction for the organisation, taking responsibility for managing staff and the organisation’s performance, ensuring it delivers its objectives in a cost effective, efficient way.
- Building constructive and effective relationships with external and internal stakeholders including DWP and its Ministers.
• As Accounting Officer, being responsible for regularity of the public finances for which he or she is accountable and their effective use.

The Person

**Essential criteria**

• Experience of dispute resolution or adjudication.

• Experience of working at a senior level in the private or public sector.

• Experience of making decisions requiring the analysis of complex issues with possibly significant legal and financial consequences.

• Proven ability in weighing evidence, setting out reasoned decisions and understanding principles of legislation

• Excellent stakeholder management and communication skills.

• Ability to engage and build effective relationships quickly with a wide range of stakeholders.

• Strong leadership capability with a clear sense of direction and the ability to work co-operatively with others.

• Experience in setting the strategic direction for an organisation, including managing staff and organisational performance

**Desirable criteria**

• Up to date knowledge of pensions law and practice.

• Knowledge of the environment in which the public sector operates.

• Understanding of the role of an ombudsman or experience of resolving complaints from consumers/members of the public.

• Understanding of and commitment to promoting high standards of customer service to members of the public.
Formal Minutes

Wednesday 11 February 2015

Members present:

Dame Anne Begg, in the Chair

Graham Evans
Sheila Gilmore
Kwasi Kwarteng

Nigel Mills
Anne Marie Morris
Mr Michael Thornton

Draft Report (Appointment of the Pensions Ombudsman and the Pension Protection Fund Ombudsman), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 12 read and agreed to.

Two papers were appended to the Report as Appendix 1 and 2.

Resolved, That the Report be the Third Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

The following written evidence was ordered to be reported to the House for publication on the internet:

Letter to the Chair of the Committee from Rt Hon Steve Webb MP, Minister for Pensions, 15 October 2014.

[Adjourned till Wednesday 4 March at 9.15am]
Witness

The following witness gave evidence. The transcript can be viewed on the Committee’s inquiry page at www.parliament.uk/workpencom.

Wednesday 11 February 2015

Anthony Arter, Department for Work and Pensions’ preferred candidate for the post of Pensions Ombudsman and the Pension Protection Fund Ombudsman

Q1-46
Published written evidence

The following written evidence was received and can be viewed on the Committee’s inquiry web page at www.parliament.uk/workpencom.

1. Letter to the Chair of the Committee from Rt Hon Steve Webb MP, Minister of State for Pensions, 15 October 2014.
### List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the Committee's website at [www.parliament.uk/workpencom](http://www.parliament.uk/workpencom).

The reference number of the Government’s response to each Report is printed in brackets after the HC printing number.

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