



Treasury Minutes on the Eighth Report and the Fourteenth to the Fifteenth Reports from the Committee of Public Accounts 2007-2008

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**Presented to Parliament by the Exchequer Secretary
to the Treasury by Command of Her Majesty
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TREASURY MINUTES DATED 12 JUNE 2008 ON THE EIGHTH
REPORT AND THE FOURTEENTH TO THE FIFTEENTH
REPORTS FROM THE COMMITTEE OF PUBLIC ACCOUNTS
SESSION 2007-08

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Eighth Report

HM Revenue and Customs (HMRC)

Tax Credits and PAYE

1. HM Revenue and Customs (HMRC – the Department) distributed £18.7 billion in child tax credit and working tax credit and collected £125 billion through PAYE in 2006-07. Tax credits benefit some 6 million families and 10 million children. On the basis of a report by the Comptroller and Auditor General (C&AG), *Standard Report on the Accounts of the HM Revenue and Customs 2006-07*, the Committee examined HMRC on tax credits overpayments, the Ombudsman's Report on tax credits, error and fraud in the tax credits system, and the taxation of small pensions.

PAC Conclusion (1): The Department has overpaid £6 billion in tax credits in the first three years of the scheme. By the end of March 2007, the Department had collected £2 billion, written off £0.7 billion and made provisions for a further £1.6 billion of overpayments it is unlikely to recover. Overpayments currently affect 1.9 million families a year, significantly greater than the estimate of 750,000 when the scheme was designed. The policy changes to reduce overpayments included in the 2005 Pre-Budget Report have yet to take full effect. The Department should report on their actual cost and effect in terms, which show whether they meet their objective of reducing overpayments by one third.

2. The Department notes the Committee's recommendation. At the time of responding to this report, all but one of the measures announced in the Pre-Budget Report has taken effect, although they have not yet been reflected in the Official Statistics. The Department publishes, as part of National Statistics, each year the level and number of overpayments, and the latest figures for 2006-07 show that the reduction in overpayments exceeds the projections set at the Pre Budget Report. Overpayments have fallen to less than half the level in the first year of tax credits, and by 40 per cent from 2005-06. The actual net cost of these measures is reflected in the figures for tax credits payments reported annually in HMRC's Trust Statement.

PAC Conclusion (2): Claimants may not understand why they have to make repayments, especially where they find themselves owing money to the Department where they were not previously in debt. Some regret ever getting involved with the scheme. The Department is looking to introduce more flexibility into the system to allow it to deal with certain categories of claimant more effectively. It needs to explain clearly in its award notices how the scheme works and how overpayments may arise.

3. The Department notes the Committee's conclusion. As the Committee acknowledges, HMRC is developing a set of improved services tailored to the needs of tax credits customers. It is doing this through its Tax Credits Transformation Programme, which is already delivering real improvements. It has run several pilot projects and introduced one new national service. The Chancellor announced a package of measures in Budget 2008 to improve the way tax credits are delivered by HMRC which will be delivered through the programme and includes the development of new communications products. Further operational improvements to the system are also set out in *Tax Credits – Improving Delivery and Choice: A Discussion Document* published on 20 May 2008.

4. In order to avoid overpayments it is important that customers check their award notices for accuracy and keep HMRC up to date with any changes in their circumstances. All award notices are accompanied by a two-page checklist clearly setting out both the items that customers need to check on their award notice and the changes of circumstances they need to report.

PAC Conclusion (3): The Department has yet to succeed in clarifying its procedures for recovering overpayments. The Department has not sought to recover overpayments where it has made a mistake and the claimant could reasonably have thought the payment was right, but has had to make difficult judgments about what claimants could be expected to know. In 2006-07, 371,000 households disputed the recovery of overpayments, of which some 10,000 resulted in write-off. The Department needs to devise and implement a more objective test for assessing when tax credits claimants could reasonably have known they were overpaid.

5. The Department shares the Committee's desire to have a clearer and more objective test to determine whether to recover overpayments. At the time of writing of the Committee's report, HMRC was already consulting on its Code of Practice 26: *What happens if we have paid you too much tax credit* on recovering overpayments. From the end of January 2008, the 'reasonable belief' test has been replaced with a clearer test that sets out HMRC's and customers' responsibilities for checking factual information. In effect it is a contract of responsibility.

6. Importantly, where a customer finds an error on an award notice and informs HMRC within 30 days, then they will not be liable to repay any of the overpayment resulting from HMRC's error. If a customer reports an error after 30 days, then they will normally be liable to pay back any overpayment, which has accrued up until the date on which they contact the Department, but they will not be liable for any further overpayments once they do contact HMRC. The changes will mean a fairer balance of responsibilities between the customer and HMRC.

PAC Conclusion (4): The Department has made a series of changes to the tax credits computer system, but software errors continue to affect some payments and it still has to fallback on manually processing certain awards. The Department accepts that the computer system is fragile which makes it very difficult to improve processing. The Department needs to strengthen its computer systems to make them more capable of supporting desired changes to processing.

7. The Department notes the Committee's conclusion. Since the introduction of tax credits, HMRC has made significant improvements to the IT system. This has meant fewer overpayments are caused by processing or software error. Where problems have manifested themselves they are usually relatively minor and invisible to customers.

8. The Department's priority is to ensure customers get paid their entitlements. The IT system is working well and achieving this and the Department has to bear in mind the need to maintain the stability of the system when considering options for developing it further.

PAC Conclusion (5): In 2006-07 the Ombudsman reviewed 393 complaints about tax credits, of which 74 per cent were fully upheld or partially upheld. The proportion of complaints upheld on tax credits is higher than for any other department investigated by the Ombudsman. It is unsatisfactory that so many people have to pursue their complaint through the Ombudsman, having exhausted the Department's own complaints procedures. The Department needs to determine why such a high proportion of complaints to the Ombudsman are upheld and reassess its own procedures.

9. The Department agrees that too many cases have gone through its complaint procedures and been upheld by the Ombudsman without being resolved beforehand. However, the Ombudsman in general has been reviewing older cases because they are the last stage in the process. The percentage of cases upheld, or partially upheld, has fallen by 16 per cent from 2005-06. From April 2006, the Ombudsman announced that she would only review new cases that have gone through all Departmental processes, which includes a review by the Adjudicator.

PAC Conclusion (6): Levels of claimant error and fraud remain unacceptably high, and the Department is still losing £1 billion each year. The Department has accepted the Committee's previous recommendations on the need to set targets for reducing error and fraud, but says it cannot set a target until 2008 when it will hold two years of good data. The Department should not have taken five years to get these targets in place. When setting these targets, it should also determine the additional resources required to achieve the target reduction in error and fraud.

10. The Department agrees that the level of error and fraud needs to be reduced significantly. The Department has accelerated the random enquiry programme to help facilitate both the setting of the target and the management of fraud and error. By summer 2008, the time required to produce reliable annual data will have been reduced by a full year from that required in previous years. Drawing on this data series, the Department will set an error and fraud target to sit alongside all the other performance indicators for the Department's business as part of its Departmental Strategic Objectives.

PAC Conclusion (7): The Department accepts changes in income and circumstances notified to it by claimants, so erroneous or fraudulent disclosures may only be detected by post payment checking and may go undetected altogether. The Department needs to assess in detail the risks of claimant error and fraud and establish whether the responses it currently has in place are sufficient to achieve its target reduction in error and fraud.

11. The Department agrees with this recommendation. HMRC adopts a risk-based approach to detect wrong and fraudulent claims, which examines the overall features of a claim. The Department will need to continue to work hard to reduce error and fraud and refresh its approach. It will need to use the whole spectrum of compliance interventions including emphasis on prevention and providing help to customers.

PAC Conclusion (8): In settling its claim against its contractor EDS for the problems encountered in implementing the tax credit system, the Department agreed that £26.5 million of the settlement could be paid in instalments reflecting new government business won by EDS. The Department has recovered little of the £26.5 million and may not obtain payment of full settlement by the end of 2008. We have previously criticised the invidious arrangement that requires the Government to commission further work from the contractor in order to recover compensation for underperformance. The Department needs to work with EDS to accelerate the rate of payments, and should consider litigation if the full amount of the settlement is not forthcoming in 2008.

12. The Department agrees with this recommendation. EDS is a major IT company and the Department expects them to meet their obligations. HMRC reached a settlement with EDS for £71.25 million, which included an up front payment and additional payments over time which the Department believes represents good value for money for the taxpayer. The Department had already told EDS that the rate of payments must be accelerated and is discussing steps with them to achieve this. The Department remains determined to be paid in full, and will go to court if necessary.

PAC Conclusion (9): The Department is failing to collect an estimated £135 million income tax on certain small pensions each year because of incorrect guidance and failures by local HMRC offices to implement agreed procedures. The Department's steps to regularise this position mean that some pensioners will have an additional and unexpected tax liability notified to them in 2008-09. The Department needs to alert pensioners to the possibility that their tax liability may change and provide them with longer periods of time to settle any additional tax liability that would affect their ability to pay.

13. The Department notes the Committee's conclusions. These relaxations and local practices will now be withdrawn and pension providers have been asked to report all pensions paid in their end of year returns with effect from 2007-08, irrespective of amount. HMRC had intended at the time of the Committee's Hearing to collect any tax due for 2007-08 and subsequent years using the normal mechanisms of the PAYE system. This would have meant beginning to collect tax monthly during 2008-09 with any 2007-08 under payment normally being collected during 2009-10. This timetable was predicated on the implementation of a new IT system to support PAYE from April 2008.

14. This system will not now be implemented until October 2008, so that some of the key PAYE end of year processes will occur much later in the year than is normal. Having taken legal advice the Department has accordingly decided that it will not now be appropriate to begin to tax these pensions from 2007-08. Rather it will now correct their treatment from 2008-09. This deferral, together with the availability and data from 2007-08 will allow the Department to communicate the likely impacts more clearly to the affected pensioners before any changes to the taxation of their pensions are made.

15. The Department is working closely with pension providers and with relevant representative bodies to ensure this occurs as effectively as possible. In any case of genuine hardship the Department will look sympathetically at claims to spread the collection of an underpayment in line with its established processes.

Fourteenth Report

Department for Culture, Media and Sport (DCMS)

The budget for the London 2012 Olympic and Paralympic Games

1. Since the Committee's hearing on 14 November 2007, significant progress has been made on the budget for the London 2012 Olympic and Paralympic Games. On 10 December, Tessa Jowell, the Minister for the Olympics, announced the Olympic Delivery Authority (ODA)'s baseline budget, which confirmed that the ODA's base cost was still £6.090 billion as announced on 15 March 2007 and that the contingency available within the £9.325 billion public sector funding provision was sufficient to cover the assessed value of the risks at both project and general programme levels. The budget is fully aligned with scope, programme and risks. The funding provision announced on 15 March 2007 remains unchanged and robust.

2. In January 2008, the ODA published a summary of the scope of what it will deliver, including legacy plans and the benefits of the overall programme. In the same month, the Government Olympic Executive published its first annual report on the preparations for London 2012 Games and Parliament approved the £1,085 million National Lottery contribution to the public funding provision for the Games. These funds will be transferred from the National Lottery Distribution Fund (NLDF) to the Olympic Lottery Distribution Fund (OLDF) between 2009 and 2012.

3. On the Olympic project, the ODA has made good progress in delivering the works. Contracts have been signed for the Olympic Stadium and the Aquatics Centre, and construction of the stadium has now started, three months earlier than planned. The site for the Olympic Village has been cleared and a crucial early project to dig huge tunnels to carry underground power lines has been completed on time and on budget. In May, the ODA completed the cabling phase of the power lines project, having installed 200 kilometres of electrical cables in the tunnels.

4. Denis Oswald, Chair of the International Olympic Committee's Co-ordination Commission for the London 2012 Games, said on 22 May 2008: "...the progress made on the Olympic Park, in particular, is truly astounding. In all areas of preparation, we have been able to see marked progress by the London 2012 team and this puts LOCOG on track to deliver great Games in 2012 and a great legacy beyond."

PAC Conclusion (1): Foreseeable requirements for public sector funding were excluded from the estimates at the time of the bid to host the Games, giving an unrealistic picture of the expected costs. Contrary to good practice, the Department did not include programme contingency, now £2.7 billion, because the scale and complexity of the undertaking were not appreciated at the time of the bid. The costs of tax and security, now estimated at over £1.4 billion, were also excluded from the estimates, as they were uncertain. Yet £738 million of funding from the private sector was included, despite not being supported by robust analysis. All costs and revenues should have been included from the outset, with the uncertainties explained and a contingency provided.

5. The Government does not accept that foreseeable requirements for public sector funding were excluded from the estimates at the time of the bid. The cost estimates at bid stage and the estimates of private income were based on the best expert advice available at the time. In view of the uncertainties the then Secretary of State for Culture, Media and Sport had already made clear to Parliament on 15 May 2003 that if the London bid to host the 2012 Olympic and Paralympic Games was successful, the Government would undertake a review of the costs.

6. At bid stage the full form of the delivery body was unknown as was its tax status; the full site preparation costs could not be established in advance of access to the site because the site was not in public ownership; the projections about private sector income from Partnerships UK were considered robust so there were no indications at that stage that public investment might be needed to underpin the private sector contributions envisaged. The bid included provision for around £473 million of project contingency, an amount that the Government considered at the time to be appropriate. However, as a result of the review of costs and an assessment of risks, based amongst other things on site examination, after the bid was won, the Government concluded that the original contingency provision should, as a programme rather than a project contingency, be increased substantially.

7. The bid estimate also included £190 million for security but this was before the events of 7 July 2005 and the re-assessment of likely security need that followed. The Department had already advised the Committee in October 2004 that, “the Home Office consider that there may be wider costs associated with policing and counter-terrorism, but that at present it is not possible to quantify these wider costs precisely.” In March 2007, the Treasury confirmed that the ODA would be liable to VAT in the normal manner and unable to reclaim it. While a cost to the Games, all tax paid by the ODA will be a future receipt to the Exchequer.

8. The estimates of private sector funding were based on advice from Partnerships UK. Further advice after London won the bid led to the conclusion that the tight timetable would limit the amount of private funding directly available for the venues and infrastructure to £165 million. The Olympic Games are, however, acting as a catalyst for major private sector investment in the regeneration of East London. Up to around £7 billion of private sector investment is envisaged through projects such as the Stratford City retail development, the Olympic Village and the International Broadcast Centre / Main Press Centre. The original estimates were based on the best expert advice available at the time and the bid was signed off across Government.

PAC Conclusion (2): The revised public sector funding package of £9.325 billion does not include all of the activities on which delivery of the Games and its legacy depends. The acquisition of land for the Olympic Park, the costs of government departments working on Games preparations and legacy planning, as well as the costs of improving wider transport links are all outside the budget. Any assessment of the costs and benefits of the Games should reflect all of the additional costs incurred.

9. The revised funding package fully covers the core elements of the cost of delivering the Games, principally the venues and other facilities. The Department has always been entirely transparent about the fact that the other costs not specifically associated with the Games, such as non-Olympic major transport schemes and wider regeneration, were not included.

10. As the Government made clear to Parliament in 2003 the cost of the acquisition of land for the Olympic Park would be met by the London Development Agency, and would be recovered from land sales after the Games are over. It would not therefore be included in the Olympic funding package.

11. The costs of civil servants working on the delivery of Government policy, including legacy planning, on the 2012 Olympic and Paralympic Games are included within the administration budgets of the Departments concerned.

12. Transport costs arising directly from the 2012 Games – including those costs related to the acceleration of projects or additional works – were included in the public sector funding provision announced on 15 March 2007 and such costs amounting to £897 million were identified in the baseline budget statement to Parliament by Tessa Jowell on 10 December 2007. It would not be relevant to include costs for transport work that was already planned, in progress, or otherwise not directly linked to the 2012 Olympic and Paralympic Games.

PAC Conclusion (3): The Department has confirmed that the public sector funding of £9.325 billion will not be exceeded and the Committee will hold the Department to account against this figure. Following our hearing, in January 2008 the Department published its first annual report summarising progress with the Olympic programme. In future, the annual reports and the six monthly updates should explain any changes to the cost forecasts and provide a breakdown of the costs incurred.

13. The Department fully accepts that it should be held to account against the figure of £9.325 billion. It has carried out a detailed Quantified Risk Assessment, which shows that the probability that the contingency is sufficient to cover the assessed value of the risks is 95 per cent, and so it can have a high level of confidence in this figure, notwithstanding the uncertainties inherent in a budget and programme of the scale and complexity of London 2012. The Department has already committed to producing annual reports and six monthly updates in line with this recommendation and including any changes to costs forecasts and a breakdown of the costs incurred. An update to the annual report published in January will be issued in July 2008.

14. The Department has also committed to providing regular, confidential briefings on progress to the Culture, Media and Sport Select Committee and the Opposition spokesmen and women.

PAC Conclusion (4): There are over four years to go until the start of the Games but £500 million (18 per cent) of the programme contingency has already been used. Contrary to the Department's suggestion, there should be no assumption that all of the remaining £2.2 billion contingency will be used. It is for unforeseen costs and the Department should satisfy itself that options to contain costs have been fully explored before further contingency is used.

15. The overall public sector funding package contains £2.7 billion of contingency, of which £500 million has been allocated to the ODA and £238 million is allocated for wider security. This means that there is approximately £2 billion of unallocated contingency.

16. The ODA, as part of the work on its November Programme Baseline Report, has carried out a Quantified Risk Assessment which has indicated that at an 80 per cent probability level, around £968 million of this £2 billion contingency could be needed as the ODA works continue over the coming years, to cover “programme risks”, primarily those risks associated with the management of a portfolio of projects with close proximity within the Olympic Park against an immovable deadline. None of the funding potentially required to cover such programme risks has been released to the ODA and it will only be released in future if such risks occur, and the ODA then makes a strong case that there is no better way of addressing the risk than through the use of such contingency.

17. In addition to the programme contingency, an amount of around £1 billion of unallocated contingency is managed by the Funders’ Group of Ministers to cover other risks such as macro-economic events (for example: higher than assumed inflation, industrial relation problems) and scope changes beyond the control of the ODA. Also, within each project there is a provision to cover specific risks in relation to areas such as design and contracting uncertainties. This is normal industry practice. At individual project budget level, as project provisions are likely to be fully required, they are considered an intrinsic element of the base budget of a project.

18. The Department, together with the other funders, has put rigorous controls in place to ensure that no contingency is spent unless and until all other options to contain costs have been fully explored.

PAC Conclusion (5): Despite the £5.9 billion increase in the public funding for the Games, the Department has not specified what will be delivered in return for this expenditure and the current budget cannot be reconciled to the commitments in the original bid. To provide a clear basis for accountability, the Department should:

- i) publish a statement of what will be delivered, including the legacy plans and benefits for the programme as a whole;**
- ii) provide an assessment of progress against that baseline for its annual reports to Parliament;**
- iii) show how any subsequent changes to the plans reconcile to the baseline and support them with a clear audit trail.**

19. The scope of what the ODA budget will deliver has been published. In January 2008, the ODA published its Programme Baseline Report Summary, which set out, in summary, the scope of what will be delivered through the ODA, including its legacy plans and the benefits of its programme. Overall, and with the benefit of the private sector investment in the area, the legacy will deliver: the largest new urban park in Europe in 150 years; five new permanent sports venues; over 3,300 homes converted from the Athletes Village and a further 5,000 elsewhere in the redeveloped Olympic Park; significantly upgraded public transport in East London; 7,000 jobs in the construction industry; and up to 12,000 jobs as a result of legacy development of the Olympic Park.

20. This budget is not the sole vehicle for delivering the commitments in the original bid and some of these will inevitably be delivered through other programmes e.g. through the London Organising Committee of the Olympic and Paralympic Games (LOCOG) and through the Government’s plans to deliver the legacy benefits.

21. The Department will report to Parliament on a six monthly basis with an assessment of the progress on the ODA Programme and Budget, including the costs impact of any changes and on developments in the wider Olympic Programme.

22. The wider legacy benefits of the Games will be set out in a Legacy Action Plan, which the Department expects to publish shortly.

PAC Conclusion (6): The preparations for the Games depend on the Department's ability to co-ordinate funding from a number of sources. The Department should maintain up to date forecasts of the cash needs for the Olympic programme and the timing of individual funder's contributions. Given that the date of the Games is fixed, the Department needs to identify any funding shortfall well in advance, and put in place contingency plans for dealing with it.

23. The Department has in place up to date forecasts of cash requirements on an annual basis through to 2012-13 and on a monthly basis for the financial year ahead, 2008-09. Together with the other funders, the Department has agreed the funding to meet the cash flow requirements as well as a set of measures that could be used for addressing cash flow shortfalls should they arise. These include the potential use of End Year flexibility. The cash flow forecasts are reviewed and updated quarterly and funders meet on a quarterly basis to review the position going forward. Arrangements for the draw down of funds and for the exchange of supporting information and assurances have been agreed with the funders.

PAC Conclusion (7): Revised expectations for private sector contributions have increased the estimated cost to the public sector by £748 million. The March 2007 budget for the Games included a £175 million public sector contribution to the cost of the Olympic Village, which was previously going to be fully funded by the private sector. In addition, the absence of legacy plans has made it harder to attract private investment, and the estimated private sector contribution has fallen by £573 million. In finalising legacy plans, the Department and the Olympic Delivery Authority should seek to reduce public sector costs by attracting private investors, who could also promote use of the facilities after the Games.

24. The Department has seen no evidence to suggest any relationship between the state of legacy planning and the level of private sector investment. But, what is clear is that private sector investment is helping to create the legacy. The Olympic Games are helping to attract major private sector investment to East London, with projects such as the Stratford City retail development, the Media and Press centre and the Olympic Village delivering up to a total of approximately £7 billion of private sector investment.

25. The Olympic Village is a huge undertaking, involving the construction of 17,000 Olympic bed spaces and over 3,300 homes. This is a private construction with a profit share for the public sector, which has been taken into account in the ODA's budget. The investment of public funds in the Village is essentially to compensate the developer for restrictions on the timing of completion and sale of residential units. This funding will go towards investment in supporting infrastructure.

26. Every main venue will have a viable long-term legacy. This is being built into the design and planning across the Olympic Park and the cost of transforming venues and infrastructure to legacy mode is reflected in the published budgets. In addition, the London Development Agency, as interim legacy client for the Olympic Park, is working closely with the ODA, Government and others to develop robust business plans for the venues and the park as a whole to ensure the provision of valuable community and elite facilities in the long-term while attracting private sector investment in the context of the wider legacy planning for the park.

27. The Olympic Park itself will be the centre of a sustainable and prosperous neighbourhood after the Games, with new homes, sporting and leisure facilities, high quality local services and greatly improved transport links, and 110 hectares of new parkland. The regeneration of the area is being developed through the Legacy Masterplan Framework (LMF) process and regeneration strategies, aligned with the business planning work, also led by the London Development Agency. The LMF team is engaging with local people and businesses to develop plans for the area around the Olympic Park, which will form the framework within which private investment shall be focused.

28. The vision for the park is that it will be “commercially focused and community minded” and the attraction of private sector investment on an ongoing basis is a key objective of the LMF process and associated business planning activities.

29. In the light of the current climate in the property and financial market, the financial arrangements for the Olympic Village are being reviewed with a view to establishing the extent and nature of any restructuring of the arrangements that may be required. This may take several months to resolve but measures will be put in place to ensure that the Olympic Village is delivered within the timescale required.

PAC Conclusion (8): The National Lottery is providing £2.175 billion (23 per cent) of the funding for the Games, but its share of any financial benefits is uncertain. The estimated £675 million reimbursement to the Lottery is inherently uncertain as it is based on estimated proceeds from future land and property sales, and on an agreement with the Mayor of London which is not legally binding. The long-term cost to the public sector may also be offset by profits from the future sale of the Village flowing back to the Olympic Delivery Authority. The Department and the Delivery Authority should identify all potential revenue generating opportunities and establish principles for how any benefits might be shared amongst the funders, including the Exchequer and the National Lottery.

30. The Memorandum of Understanding between the Government and the Mayor of London, published in June 2007, sets out an agreement and mechanism for the sharing of profits from London Development Agency land sales in the Olympic Park. The agreement places an expectation on both parties and it represents a clear statement of intent against which they can be held to account. The intention is to raise £675 million for the National Lottery to offset the additional Lottery funding announced on 15 March 2007.

31. The Government has a high level of confidence that, in view of the time horizon involved, this recovery can be achieved notwithstanding the current downturn in the property market. The recovery of the £675 million in full would require an average annual increase in land values of around 20 percent. Greater London Authority figures indicate growth rates in London land values of, on average, 19 per cent per annum over the past twenty years and 20 per cent per annum over the past ten years.

32. The Department expects that, to the extent that there are any receipts from disposal of ODA assets over and above those already assigned to offset expenditure within the budget, they will be shared appropriately between the funders. However, this remains to be determined. The Olympic Lottery Distributor has included as a condition of its Lottery grant to the ODA that the Lottery should receive an appropriate share of any receipts or future income streams going to the ODA as a repayment of grant.

PAC Conclusion (9): The Olympic Delivery Authority is having difficulty generating supplier competition for some venues. Ideally, contracts should be awarded after effective competition between suppliers. If this is not achieved, it is all the more important that the Olympic Delivery Authority builds cost and performance safeguards into contracts. The Olympic Delivery Authority should have rights of access to contractors' books to check costs and financial viability, and should establish clear contractual incentives for delivering to time and cost targets. The Authority should also have early warning arrangements and contingency plans in place to identify and resolve any problems with contractors, and, if necessary, replace them.

33. With the exception of the contract for the Olympic Stadium, all main contracts to date have had multiple bidders and effective competition. The ODA's contracts provide for an "open book" approach to costing. Incentives on contractors to deliver against time and cost targets are being built in to the ODA contracts as part of their standard procurement approach.

34. The financial position of contractors is assessed at pre-qualification stage to ensure their financial robustness and the ODA have a dedicated Supply Chain Management Team that has identified the critical suppliers that could present a significant risk to the programme. The viability and performance of these key suppliers will be monitored on an ongoing basis and contingency plans are being put in place to ensure that should any contractor face financial or delivery difficulties there would be no material consequences for the delivery of the programme. Furthermore, this is reinforced by the fact that contracts are let under the NEC3 suite of contracts, which place an onus on all parties to give early warning of anything that could affect the project.

PAC Conclusion (10): The Department is aiming for wide ranging legacy benefits from the Games, but there is no basis on which to measure achievements. The legacy planning should now be completed and for the full range of expected benefits, extending beyond East London to the United Kingdom as a whole, the Department should make sure that the plans set out: quantified objectives and how they will be achieved, how and by whom success will be evaluated, and who will be accountable.

35. No other Olympics has made a commitment to legacy on the scale of the London 2012 Games. As well as being a major catalyst of regeneration in East London, the Government is developing programmes that are transforming the sporting opportunities for young people and increasing sports participation.

36. The Government's Legacy Action Plan will be published shortly and will set out how the legacy will be delivered. In conjunction with this, detailed delivery plans are being finalised, which will demonstrate how mainstream budgets across Government will secure a lasting benefit from the Games. The plans cover key areas such as community and elite sport, sustainability, culture, education, business, jobs and skills, and tourism. The initial plans will be regularly updated.

Fifteenth Report

Department for Work and Pensions (DWP)

The Pensions Regulator: Progress in establishing its new regulatory arrangements

1. The Pension Regulator (TPR) was established in April 2005 to take a risk-based approach to regulating work-based pensions. TPR regulates two very different types of pension schemes (final salary and money purchase) each with very different risks. There are around 85,000 pension schemes in the UK.

2. In order to direct its resources in a focused and proportionate way, TPR has developed a risk-based model that allows it to identify the greatest risks to members' benefits. This model means that at any one time between 150 and 300 schemes receive a high level of direct attention from TPR, a few thousand are subject to information and intelligence gathering and the remaining 81,000 schemes are the focus of ongoing education and awareness activities.

3. In pursuing this risk-based approach, TPR adheres to all of the Hampton principles of better regulation.

PAC Conclusion (1): Amongst the most serious failings of OPRA, The Pension Regulator's predecessor, was its tendency to treat all cases the same. This approach prevented it from directing resources at the areas that needed most attention and it became heavily burdened by the quantity of data it collected. The Pension Regulator (TPR) has put in place processes for determining the schemes, which present the greatest risk to members and for collecting data according to its risk assessments.

4. TPR welcomes this conclusion and the committee's endorsement of the development of its risk model and risk-based approach.

PAC Conclusion (2): TPR has information on 99 per cent of final salary schemes by membership, but on only 32 per cent of money purchase schemes. It has made good progress in regulating final salary schemes, but is only now implementing an approach to money purchase schemes. TPR expected to have largely completed its database of all pension schemes by March 2008. It should use it to identify those money purchase schemes presenting the highest risk and direct its regulatory attention towards them.

5. Since the date of the committee hearing TPR has made good progress in increasing the amount of information it holds on money purchase schemes. It currently has information on 75 per cent of money purchase schemes and expects this total to increase further. It has also successfully introduced a new online service, which makes it easier for all schemes to provide and update information.

6. TPR accepts the committee's observation that its initial focus was on addressing the risks to final salary schemes. As the committee notes, there were good reasons why this was the case – chief amongst these being the size and scale of scheme funding deficits and the risks these presented to the benefits of millions of pension scheme members..

7. The Regulator has consulted on and published its approach to the regulation of money purchase schemes, building on previous research and consultation to identify the key risks to this sector. It published an update report in January highlighting progress, including:

- publication of guidance on voluntary employer engagement in contract-based schemes;
- the launch of a Trustee Toolkit module on money purchase schemes; and
- joint guidance with the Financial Services Authority on the regulation of work place contract-based schemes.

8. The update report also set out the Regulator's latest analysis of the money purchase landscape and the results of its latest research giving in-depth qualitative information on how money purchase schemes are being run.

PAC Conclusion (3): Fewer than a third of schemes have a conflict of interests register and only two-thirds offer formal structured governance training. Although TPR has defined what constitutes good governance, standards remain low in many pension schemes, particularly among money purchase schemes and smaller schemes. TPR should raise awareness within these schemes of the standards that it expects and the assistance available, and it should target those schemes that fall short of the required standards.

9. Standards of governance have been a focus for the Regulator since it was first established. They have recently published draft guidance on Conflicts of Interest and this is currently out for consultation. This is in addition to guidance on other aspects of governance – for example: Winding Up, and Voluntary Employer Engagement. It has plans to produce a range of further guidance and information products in this area, including Relations with Advisers, Record Keeping and Member Communications.

10. TPR accepts that there is much further to go in driving up standards in the many thousands of small – typically money purchase – schemes. The Regulator is continuing to invest increased resources to enable it to improve its ability to target smaller schemes with information, using its enhanced scheme information to target messages and communication in an appropriately risk-based manner. It also continues to work closely with the Financial Services Authority, which also has a regulatory role in respect of contract-based money purchase schemes.

PAC Conclusion (4): Only 15 per cent of all trustees are registered on TPR's trustee web-based training toolkit and the majority do not complete all of the modules. TPR needs to increase take-up of its toolkit and guidance materials for trustees. It should use its database of schemes and of registered users of the toolkit to identify those trustees who have not yet completed the toolkit. TPR should then communicate with these schemes to encourage take up of the toolkit.

11. The Trustee Toolkit, which now has over 24,000 registered users, is an extremely effective and highly regarded tool for improving pension scheme governance standards. Whilst trustees are required by law to have an appropriate level of knowledge and understanding, completion of the toolkit is not mandatory and trustees are free to obtain the necessary learning by other means – for example: training courses provided by professional advisers.

12. TPR is already using the information sources suggested by the committee to target trustees and has carried out further research into what motivates trustees to use/not use the toolkit and what prevents some from completing all of the modules. It also promotes the toolkit through its ongoing marketing activities and is aiming to increase take up significantly year-on-year.

PAC Conclusion (5): TPR has set itself the goal of year on year improvements in governance standards, but has not been clear about the extent of desired annual improvements or its ultimate goal for governance standards.

13. The Regulator sets annual targets for improvements around various aspects of governance – for example: risk management and internal controls, monitoring administration, as measured by its annual Governance Survey. The survey results are published and disseminated across the regulated community and used to prioritise activity by the Regulator.

14. The issue of how to set harder-edged governance standards is being taken forward as a key theme within a wide-ranging strategic enquiry project that will inform TPR's priorities for the coming years. The Regulator expects to publish a consultation document based on this work, and including propositions around governance standards, during the summer.

PAC Conclusion (6): TPR has been given greater enforcement powers than OPRA, but so far has made little use of them. Where schemes are not governed well, TPR must intervene to ensure that members' benefits are protected, and that the scheme is meeting its statutory objectives. Whilst TPR should only use such powers when there is good reason to do so, it must avoid appearing reluctant to use them.

15. As a risk-based regulator, TPR considers the use of its powers on a case-by-case basis and will only use them where it is appropriate and proportionate to do so. The Regulator remains of the view that the potential use of its powers acts as a powerful deterrent and negotiating tool, for instance in supporting trustees in scheme funding negotiations.

16. TPR has made use of its powers ever since it was established – for example: making 298 trustee appointments in 2007, prohibiting a trustee and issuing a Financial Support Direction in relation to Sea Containers. It should also be noted that since the PAC hearing the Regulator has made use of its powers in a further high profile case (Telent) that clearly demonstrates its willingness to use its powers when it is appropriate to do so. Both the Sea Containers and Telent cases received a high degree of media coverage and have sent clear messages to the market.

17. The Department and TPR keep the legislative framework and the Regulator's powers under constant review to ensure that they remain fit for purpose against a background of innovation and change in the pensions landscape. Ministers announced enhancements to some of the Regulator's powers in April and these are currently subject to consultation.

PAC Conclusion (7): In order that its regulatory expectations are clear, TPR needs to be transparent in its decision-making. Initially, TPR did not publish its determinations, but in September 2007 agreed to publish them in future, except in special cases. It also undertook to publish all past determinations except where there was a good reason not to do so, and should do this without delay in order to bring clarity and transparency to its past decisions.

18. As the committee have noted, since September 2007 it has been the Regulator's policy to publish determinations unless there is a good reason for not doing so. The detailed determinations in both the Sea Containers and Telent cases were both published and received considerable media coverage.

19. Since the committee hearing all past determinations have been subject to a review in the light of the Regulator's new policy and were published as appropriate on the TPR website before the end of May.

20. In a further move, TPR used its powers under section 89 of the Pensions Act 2004 to issue a public report on aspects of the Telent case in April.

PAC Conclusion (8): Lack of understanding amongst members is a key risk to money purchase schemes but TPR has done little to generate improvements. No explicit promises are made to members about the level of their final pension, and they bear all the risk that funds accumulated on their behalf may not provide a reasonable pension. TPR should review with the Financial Services Authority the adequacy of the information provided to members about their likely pension and work with the Financial Services Authority to fill any gaps identified.

21. The Regulator takes the issue of member understanding very seriously and identified this as a key risk in its consultation document on the regulation of money purchase schemes in November 2006.

22. It is important to note that the Regulator's remit is to ensure that trustees, employers and related professionals are well informed and that they communicate effectively with members. To this end it will be issuing best practice guidance on member communication by the end of June.

23. TPR continues to work closely with the Financial Services Authority on a number of issues, including member communication and financial capability. It is also looking at what impact the results of the Thoresen Review will have on the FSA's work in this area and working with the Department to identify gaps in pension information provision to employees.

24. Member understanding forms one of the themes being investigated by the Regulator as part of its strategic enquiry work. It will be setting out its thinking on this area in a consultation document this summer.



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