

The Pensions Ombudsman and  
Pension Protection Fund Ombudsman

# ANNUAL REPORT AND ACCOUNTS 2010/11

# The Pensions Ombudsman and Pension Protection Fund Ombudsman

## Annual Report and Accounts 2010/11

The Pensions Ombudsman's Accounts presented to Parliament pursuant to section 145(9) of the Pension Schemes Act 1993 as amended by the Government Resources and Accounts Act 2000 (Audit of Public Bodies) Order 2008 and the Pensions Ombudsman's report presented to Parliament by Command of Her Majesty.

The Pension Protection Fund Ombudsman's Accounts presented to Parliament pursuant to section 212A of the Pensions Act 2004, as amended by the Government Resources and Accounts Act 2000 (Audit of Public Bodies) Order 2008 and the Pension Protection Fund Ombudsman's report presented to Parliament by Command of Her Majesty.

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## About us

### **The Pensions Ombudsman**

The Pensions Ombudsman's office investigates and determines complaints and disputes concerning occupational and personal pension schemes. The Pensions Ombudsman and Deputy Pensions Ombudsman are appointed by the Secretary of State for Work and Pensions. They act independently and impartially and their decisions are final and binding (subject to appeal to the courts on a point of law) and enforceable in the courts. The establishing legislation is Part X of the Pension Schemes Act 1993.

### **The Pension Protection Fund Ombudsman**

The present holders of the posts of Pensions Ombudsman and Deputy Pensions Ombudsman have also been appointed Pension Protection Fund Ombudsman (PPFO) and Deputy PPFO. In this capacity they deal with complaints and "reviewable matters" connected with the Pension Protection Fund (a statutory corporation) and appeals against decisions of the manager of the Financial Assistance Scheme. The PPFO's functions are carried out by staff of the Pensions Ombudsman's office. The establishing legislation is sections 209 to 218 of the Pensions Act 2004.

### **Funding**

The joint office is funded by grant-in-aid paid by the Department for Work and Pensions (DWP). The grant-in-aid is substantially recovered from the general levy on pension schemes that is invoiced and collected by the Pensions Regulator. The levy is set by and owed to the Secretary of State for Work and Pensions.

In 2010/11 the office received £2,810,000 grant-in-aid, incurred net expenditure of £2,678,353 and had net assets at 31 March 2011 of £75,913. Full details are in the accounts.



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# **Introduction**



## Section 1: Introduction

The institution of Pensions Ombudsman has reached the advanced age of 20. The first Pensions Ombudsman, Michael Platt, opened for business on 1 April 1991. As I write I am sitting about six yards from where his office was.

In the foreword to his first annual report Michael Platt said, "The year has been difficult and challenging." I could almost stop there. But if that has stayed the same, many other things have changed over the years. The first ombudsman ended his first year with 12 people; we are 36. In its first year the office determined or resolved 108 complaints; in the twentieth, the year covered by this report, the figure was 887. In 1991/92 the total expenditure was £470,000; last year it was £2.68m<sup>1</sup>.

That £2.68m represents an underspend of about 12% against our budget. When, a few weeks ago, I mentioned in passing to a respected pensions lawyer that our budget was roughly £3m he expressed considerable surprise at just how small it was. We are a remarkably lean organisation. Our "back office", the people not directly involved in casework, consists of four out of the total of 36. We outsource all of our support services, such as accounting, payroll, IT support and website management.

And though the year may have been "difficult and challenging", we rose to the challenges. Overall our productivity exceeded expectations set at the start of the year and our completion times remained much shorter than in years gone by. We met some of our targets for the year and were within a whisker of others even though we were understaffed for reasons beyond our control.

Our main challenge was that we were disproportionately affected by the spending restrictions that followed the change of Government in May 2010. As a result of our strategy of using outside support, the restrictions on expenditure to suppliers and contractors bit in ways (for example on website work and IT consultancy) that would not have affected a larger organisation with more internal support services. The constraints held us back and meant that we had to divert our front line resource. Recruitment restrictions affected us too.

As a public sector body, we have inevitably been asked to make savings in real terms over the next few years. We are funded indirectly out of the general levy on pension schemes. So the savings we make (a drop in the ocean, but that is no argument against making them) will contribute to keeping the levy down, rather than to reducing public sector debt.

Over the 20 years of our existence we have successfully played a small but important part in supporting consumer confidence in pensions (particularly necessary over recent years). And in spite of early concerns about importing the ombudsman concept into pensions, I think we have the broad support of the industry, even if not everyone will like every decision!

I hope that that support will translate into recognition that, beyond a point, reduced financial resource is likely to mean reduced service. We have already done a great deal to simplify and streamline what we do. There is more that can be done. No-one wants us to slide back into the situation of some years ago when there were hundreds of open cases that were two, three or even more years old.

So during the year we took a number of steps that will strengthen the foundation on which we can build future change. As an example, we recorded our casework procedures fully for the

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<sup>1</sup> Changes in accounting arrangements make direct comparison risky.

first time, both as a procedure guide for staff and as process documents to support our future computer systems. We also restructured the team that deals with the early stages of the process and we subjected ourselves to an internal audit of case handling.

But in the next few years, with resources inevitably stretched, avoiding harm to our ability to perform our function will take a great deal of commitment from us, and support and understanding from our stakeholders.

Enough, though, of management issues. What of the actual work: the complaints, disputes and other matters that we looked at during the year?

The broad pattern was consistent with past years. As usual, early retirement, and ill-health early retirement especially, were sources of complaint for reasons explained in the body of the report. There were no obvious new areas of complaint. In particular, it is too early yet for us to see consequences of incentivised transfers-out, or of public sector job losses and scheme changes.

There was a slight increase in the relatively small number of referrals to the Pension Protection Fund Ombudsman – and for the first time a referral was upheld against the Pension Protection Fund Board, if essentially for a technical reason.

In the Courts, there was the usual handful of appeals against past determinations, of which four were successful in whole or part, including one in which a finding of fact in a determination was overturned and substituted for, on a point of law.

And, though the Courts have yet to hear the matter, for the first time in the office's history the power under section 150(7) of the Pension Schemes Act 1993 for the Pensions Ombudsman to refer a question of law to the Courts is to be used.

This has been the first full year of appointment of the present Deputy Pensions Ombudsman (and Deputy Pension Protection Fund Ombudsman), Jane Irvine, who operates in a different structure from that in which her predecessor held the post. She is based in Scotland and works part time in the role, concentrating on case decision making, to the side of the management structure. I am grateful to her for her enthusiastic help and support, for her wise advice and particularly for her flexibility in accommodating fluctuations in workload as they occurred.

I should also extend my thanks to the staff at DWP with whom we liaise. A good working relationship with them, in times when it could so easily become strained, is to be valued.

As I have already said, we managed to exceed our expectations of productivity – completing almost as many cases as we planned, but with reduced resources. For that, and for all of their contributions to providing an effective, changing service in difficult times, my thanks go to all of our staff. Without them I would not feel so confident that we can in future be as effective in supporting public confidence in pensions as we have been in the past 20 years.



**Tony King**  
Pensions Ombudsman  
Pension Protection Fund Ombudsman

**2**

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## **Management Commentary**



## Section 2 – Management Commentary

### 2.1 Pensions Ombudsman Casework Review

#### Dealing with cases

##### Our caseload

We divide our caseload in two:

##### Enquiries

Initial communication up to the point that we either accept a case for investigation or decide that it is unsuitable, most commonly because it is not a complaint or dispute at all, or it has not yet been referred to the person thought to be at fault, or it is not a matter we can deal with.

# 3,066

New written enquiries during the year

# 222

Enquiries in hand at the start of the year

# 204

Enquiries in hand at the end of the year

# 3084

Enquiries closed during the year

##### Investigations

Complaints or disputes that we have decided come within our jurisdiction and should be investigated further.

# 915

New cases accepted for investigation

# 538

Investigations in hand at the start of the year

# 606

Investigations in hand at the end of the year

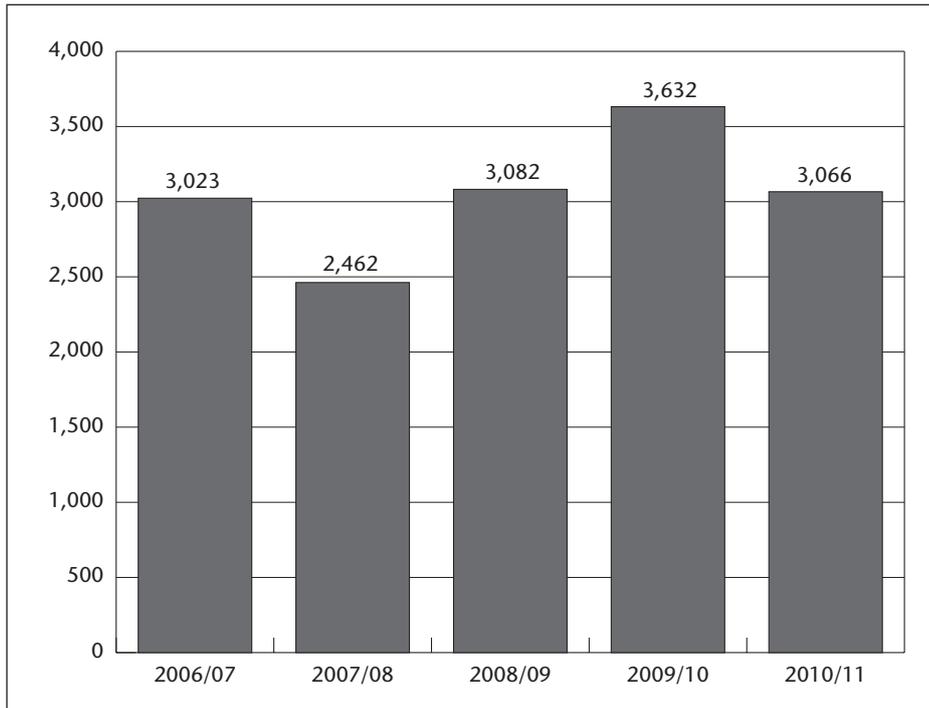
# 847

Investigations closed during the year

### Enquiries – key facts and figures

- Over recent years the numbers of enquiries received has remained relatively stable at around 3,000 enquiries a year. In 2010/11 we received 3,066.
- In the year around 36% of enquiries were either referred to the Pensions Advisory Service (TPAS) for advice and mediation, or the applicant was advised that they must raise the matter with the person they were complaining about, often through the scheme’s formal disputes process, before returning to us if necessary.
- Around 28% of the enquiries we dealt with this year became investigations.

**Figure 1: New enquiries (last five years)**



**Figure 2: Enquiries – Comparison of performance against goals**

Number of open enquiries at the year end (assuming 3,000 new enquiries in year)

Goal	200
Outcome	204

Average time taken for enquiries to receive an initial response, definitive where possible, or asking for further information where not

Goal	3 days
Outcome	2.47 days

Average time to deal with initial enquiries, deciding whether or not to investigate and, if so, what aspects should be investigated

Goal	10 weeks
Outcome	10.18 weeks

We very nearly met our goal of carrying forward no more than 200 open enquiries at the year end. In 2010/11 we set ourselves a considerably more challenging goal than the previous year (when the target was to carry forward no more than 300 open enquiries). We expect the new procedures we have introduced, and are continuing to build on, will allow us to reduce this further in subsequent years.

We marginally missed our target of making jurisdiction decisions within an average of 10 weeks. Before accepting a case for investigation we fully consider whether it is within scope including: whether the complainant and the respondent fall within our jurisdiction; if the substance of the complaint falls within our remit; and whether it has been brought to us within our time limits. We reviewed a higher percentage of cases to see whether they could be accepted for investigation, with correspondingly more initial work required.

**Figure 3: What happened to enquiries**

	2010/11	%	2009/10	%
Accepted for investigation	915	27.8	950	24.1
Complainant outside jurisdiction	6	0.2	8	0.1
Discretion not to investigate exercised	16	0.5	14	0.4
Enquiry abandoned/no action needed	688	20.9	807	20.4
Enquiry not yet put to scheme/IDRP* not used	237	7.2	662	16.8
Not relating to pension scheme/plan	15	0.5	29	0.8
Outside time limits	65	2.0	85	2.2
Referred to the FSA** or FOS***	127	3.9	76	1.9
Referred to TPAS	877	26.6	846	24.0
Respondent not in remit	40	1.2	16	0.4
State benefits	92	2.8	128	3.2
Subject to prior court proceedings	6	0.2	4	0.1
Enquiries in hand at end of year	204	6.2	222	5.6
Total	3,288		3,847	

\* Independent Dispute Resolution Process

\*\* Financial Services Authority

\*\*\* Financial Ombudsman Service

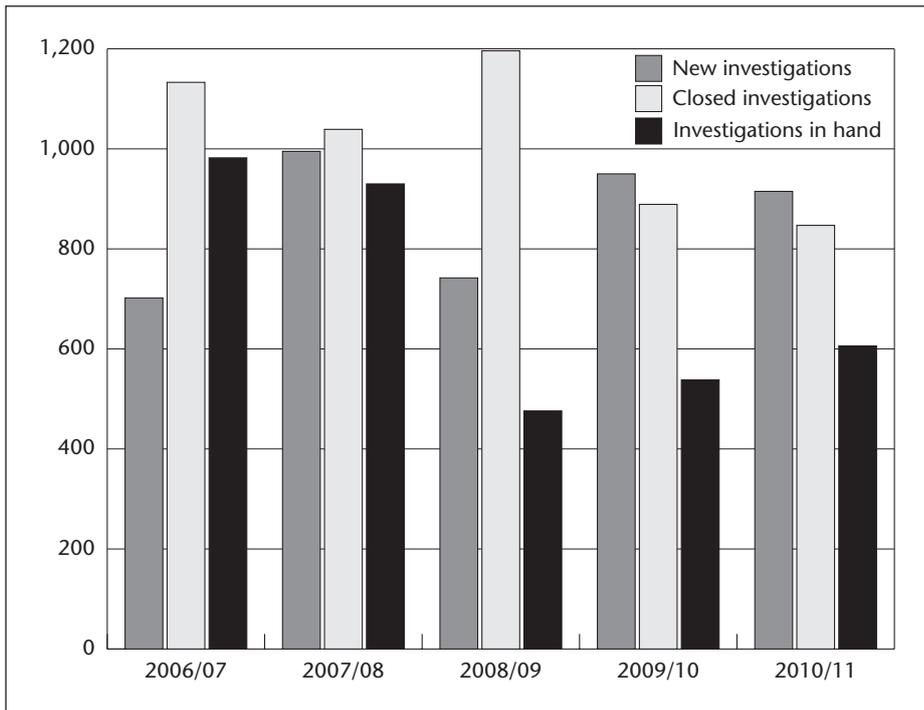
In 2009/10 around 41% of those making enquiries were either referred on to TPAS for advice and mediation, or were told that we expected them to take the matter up with the scheme authorities (trustees, employer or manager) before coming back to us – if it was still necessary to do so. This was a reduction on the percentage having to be referred on in 2008/09. This year around 34% of enquiries had to be referred on in this way. And whilst the numbers are still higher than we would like, this shows a positive trend towards more people approaching us at the right time.

Where we decide the case should not, or not yet, be investigated we do our best to point the person in the direction of someone who may be able to help.

### Investigations – key facts and figures

- We accepted 915 new cases for investigation, around 6% more than we expected to.
- We closed 847 cases representing higher productivity than our target of 860 assumed (we were under-staffed during the year).
- A third of cases were completed within 6 to 12 months, the same as last year, despite a staff shortage.
- 41% of investigations were resolved without an Ombudsman’s determination, consistent with our policy of resolving cases as early and informally as possible.
- Because we accepted more cases for investigation than expected we are carrying forward more open investigations into 2011/12 than planned (see Figure 4).

**Figure 4: Comparison of cases accepted for investigation, closed investigations and open at year end (last five years)**



We have continued to focus on resolving matters as early as possible. Midway through 2010/11 we restructured our teams and introduced new processes to identify cases suitable for early resolution and deal with them more quickly, where possible. This included categorising cases in terms of complexity and the relative length of time we estimate it will take us to investigate the case once it has been accepted for investigation, so we can direct the right level of resources at it. Investigators are encouraged to use the telephone more to try and move cases forward and to facilitate early resolution.

Our procedures enable and encourage investigators to reach a view on likely outcome at any point during an investigation. In a small number of cases this will happen at a very early stage and informal settlement will result in the case being resolved or withdrawn.

More commonly, the investigator will write to one or both of the parties explaining what their view is and why they have reached that conclusion. If either party disagrees with the conclusion reached then the matter will be referred to the Ombudsman or Deputy Ombudsman for determination. In these cases the determination takes the form of a letter. We refer to these in Figure 6 as a “short form determination”.

In our more complex cases or where there is a point of wider application for the pensions industry generally, or for other reasons there is merit in adopting the most formal approach, when our investigation is complete we may issue a “notification of preliminary conclusions”. It is, in effect, a draft determination which sets out in report form the view of the Ombudsman or Deputy Ombudsman. Parties are invited to comment on the preliminary conclusions and, having considered their representations and made any necessary further enquiries, the Ombudsman or Deputy Ombudsman will issue a formal determination. We refer to these in Figure 6 as a “full determination”.

A determination is legally binding on all the parties to the complaint, subject only to appeal on a point of law to the High Court in England and Wales, the Court of Session in Scotland and the Court of Appeal in Northern Ireland.

Whilst there will only be one applicant to each complaint, commonly there is more than one respondent, where the applicant thinks that the responsibility for the maladministration may lie with a combination of employer, trustees, administrators and/or managers. Where we have a number of individual applicants all alleging the same thing against a particular respondent, we treat each as a separate complaint for statistical purposes. We usually investigate them by treating one of the cases as a lead complaint with the expectation that the rest will be dealt with in the same way, but without each needing separate investigation. In some years we have had sizeable numbers of such cases, which distort the statistics. This year the largest group we had was a case involving 28 separate applicants.

**Figure 5: Investigation closures**

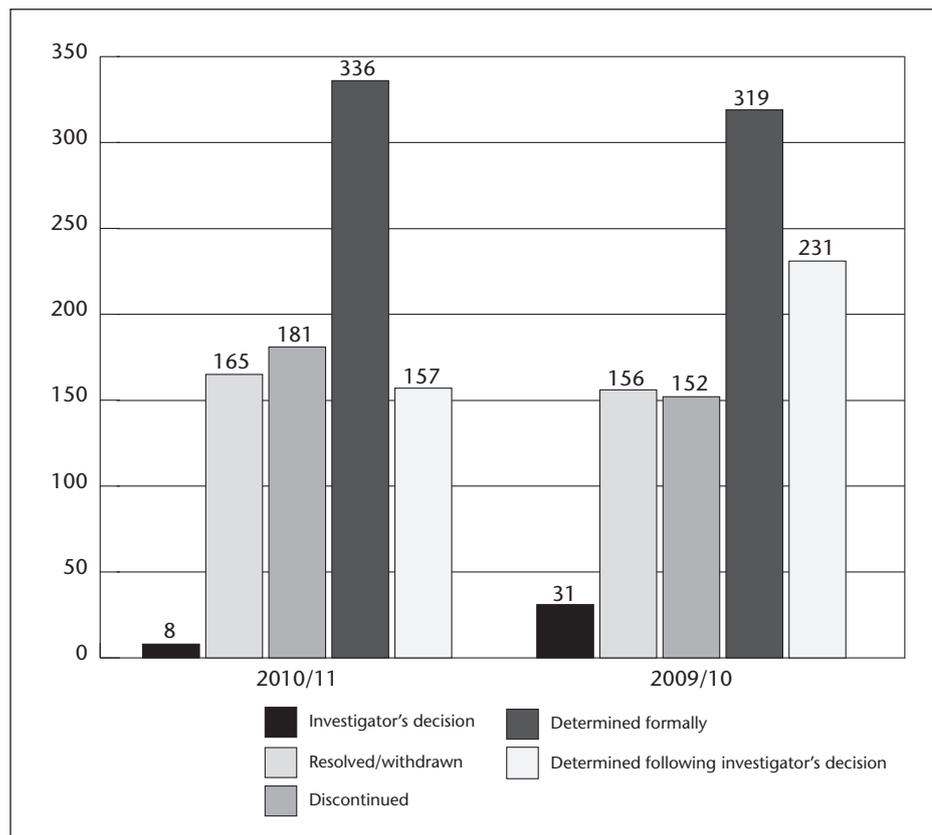
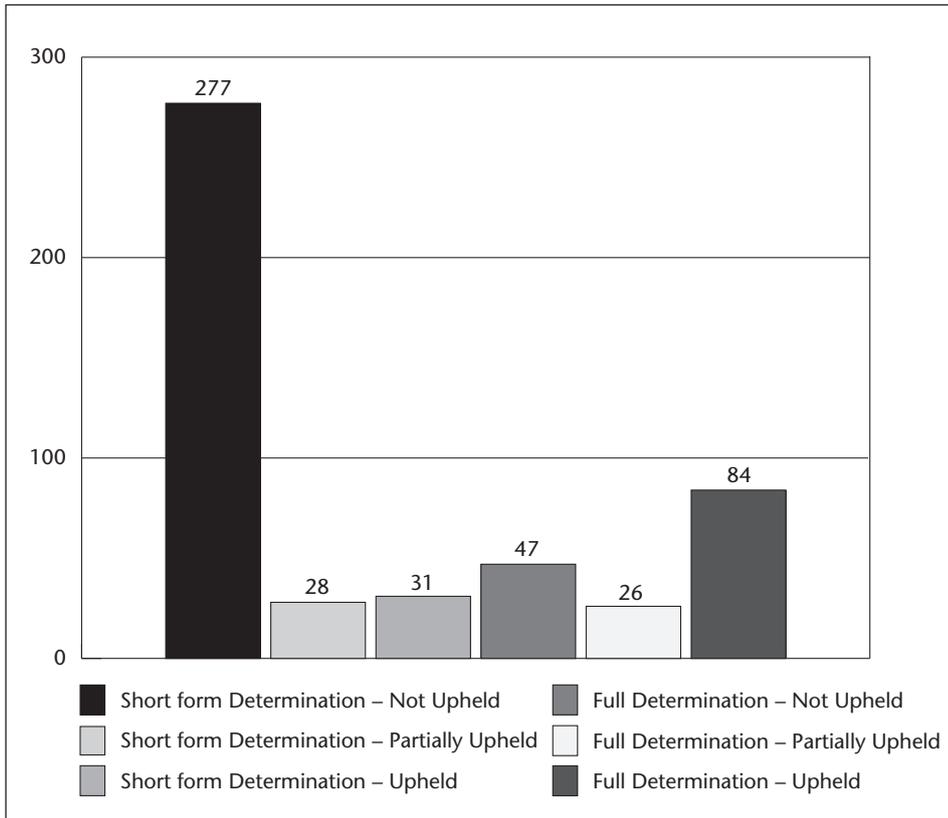


Figure 5 shows the process used to bring cases to a conclusion. Complaints dealt with informally (recorded as withdrawn, discontinued or resolved) generally take the shortest time to deal with. Cases requiring Ombudsman input will normally take longer. Often the investigator will have tried to achieve an agreed resolution before it is referred to the Ombudsman. Sometimes the investigator will have decided that the informal approach is unlikely to be effective and will have adopted the full formal process from the start.

In the year 59% of investigations completed had been referred to the Ombudsman or Deputy Ombudsman for determination, compared to 62% last year and 70% in 2008/09. This is consistent with our approach of trying to get cases resolved earlier by more informal means.

Figure 6 shows the outcome of decisions made in cases referred to the Ombudsman or Deputy Ombudsman for determination. 37% of Ombudsman determinations resulted in the complaint being upheld in full or part.

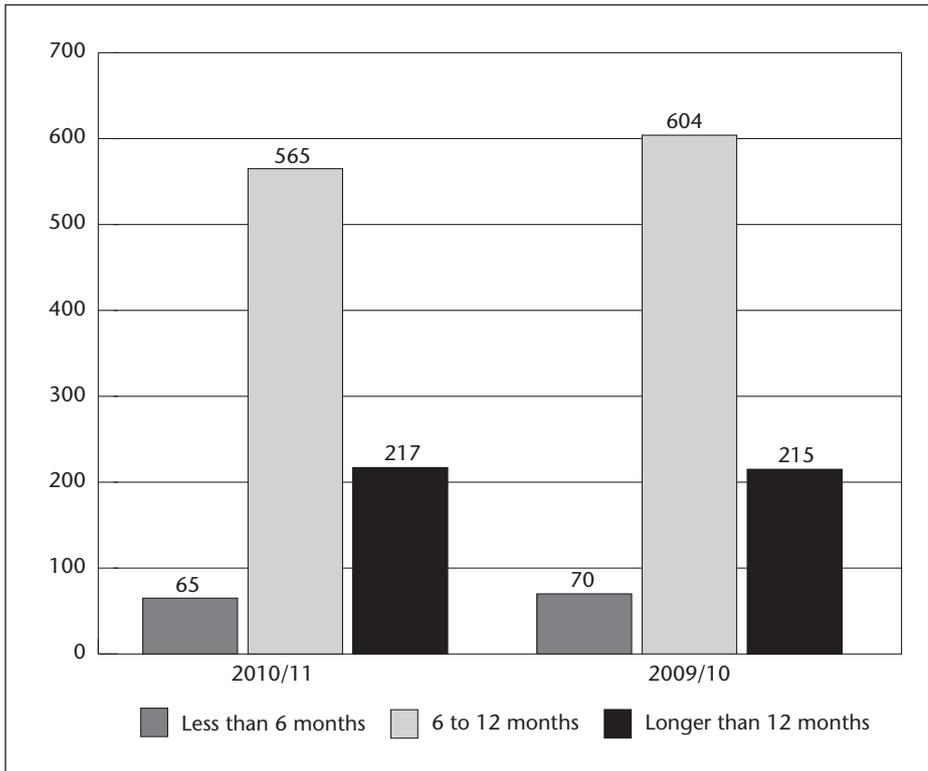
**Figure 6: Reasons for closure**



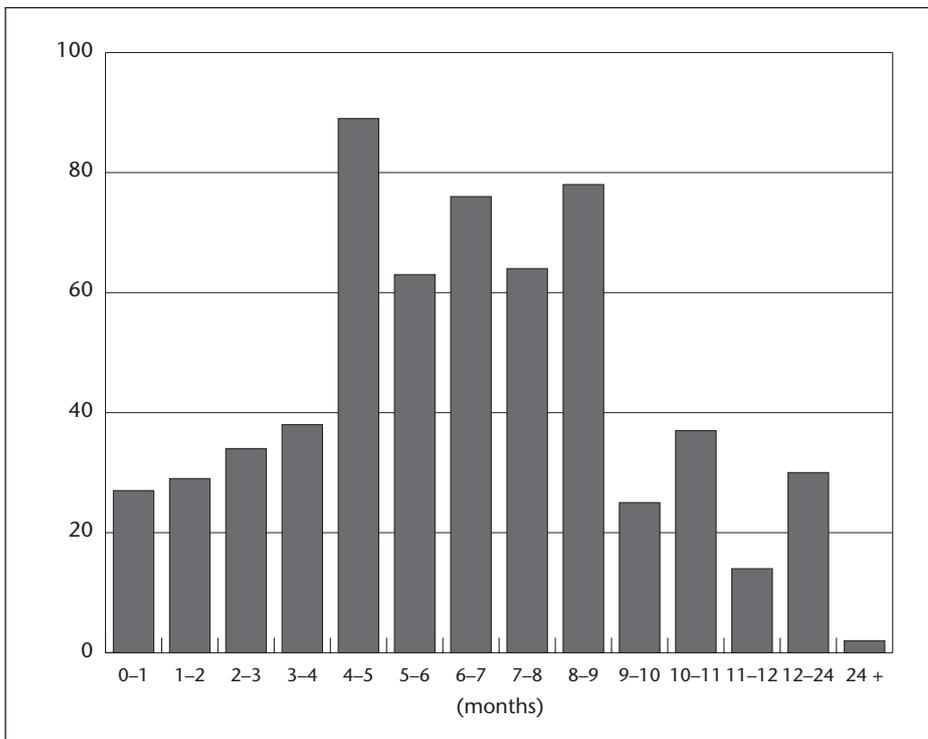
We have continued in the year to do our best to prevent investigations becoming any more protracted or suffering undue delay in our hands by focussing on informal and early resolution. However, we still have a sticking point in our process. After it has been decided that we should investigate, cases wait in a “pool” to be allocated to an available investigator. It has been a source of frustration that the waiting time has increased slightly in the year, when we would really like to reduce it to a matter of weeks at maximum. But the only practical way of doing that quickly would have been to apply resources to those cases that we simply did not have in 2010/11.

But, as Figure 7 shows, despite this period of inactivity whilst the case waits in the pool, in this year, as in last, two thirds of cases were closed within 6 to 12 months. We were pleased to be able to maintain this level of service despite being under resourced all year. And the time taken still represents an improvement on the recent past: for example, in 2008/09 only one third of cases were completed within 6 to 12 months.

**Figure 7: Age of Investigations closed**



**Figure 8: Open investigations – age in months**



We measure the age of a case from the date that we get the application, not the date that we decide to investigate it. Because we opened more investigations in the year than we completed, the average age of cases has increased and the age around which they are grouped has moved back.

### Figure 9: Our goals for dealing with cases under investigation

Average time for completed investigations from the date of initial application	
Goal	10 months
Outcome	9.8 months
Maximum number of cases on hand more than 12 months old	
Goal	20
Outcome	32
Maximum number of cases on hand more than 24 months old	
Goal	0
Outcome	2
Average age of open investigations at year end	
Goal	24 weeks
Outcome	28.9 weeks

At the end of 2010/11, we had 32 cases in hand over 12 months old and two cases over 24 months old. This was similar to the position at the end of last year, but it meant that we missed our challenging goal of having no more than 20 cases over 12 months old and no cases over 24 months old. Normally if a case is still open beyond 12 months it is for reasons beyond our control; for example, the case is connected to a live court case that might affect the outcome of our investigation.

We met our target for investigations to be completed on average in under 10 months (the actual average was 9.8 months) which is particularly pleasing bearing in mind the resourcing issues we have faced this year.

### Figure 10: Cost ratios

	2010/11 Target	2010/11 Actual	2009/10 Target	2009/10 Actual
Annual expenditure divided by all cases closed	£880	£832	£918	£782
Annual expenditure divided by investigations closed	£3,430	£3,162	£3,482	£3,222

As performance indicators we calculate “cost per case” and “cost per investigation” figures. (They are not intended to represent the actual average cost of dealing with a case. They both take into account *all* of the costs of the office, which for the “cost per investigation” figure includes also costs related to enquiries that never become investigations.)

The figures can be distorted by large groups of cases all involving the same issue, or by exceptional expenditure in a year. This year we substantially underspent our budget which makes our costs look remarkably good, but not sustainably so.

## Subject matter

The statistics for subject matter of complaints show a remarkably consistent pattern over time. Early retirement (particularly if enforced) is a point at which scheme members will be especially sensitive to error because of the potential for impact on a reduced income. And applications for ill-health pensions have always been a source of complaint. They involve an extra set of emotional, financial and medical uncertainties, plus difficult judgments to be made and significant costs to schemes.

Complaints about transfers are often triggered by falling investment values whilst money is out of the market during the transfer process. It may be that the slight increase over 2009/10 relates to the declining markets of recent years, with built-in delay in the complaints process before they reach us. We are not yet seeing complaints about so-called “enhanced” transfers (where the member is given an incentive to transfer out of a defined benefit scheme as a way of buying out risk to the scheme). Presumably at the time the enhancement is accepted, the member believes they have done the right thing. Complaints, if there are to be any, will come later, when members think they have been persuaded to their disadvantage.

Our classification system for complaints is old and needs to be revisited as part of our overall IT changes covered elsewhere in this report. That, however, explains the unfortunately large number of complaints classified as “other”.

**Figure 11: Subject matter of closed complaints**

	2010/11	%	2009/10	%
Annuity	7	1	8	1
AVCs	24	3	23	3
Calculations of benefits	52	6	48	5
Contributions, refunds & queries	21	2	32	4
Spouse’s and dependants’ benefits	37	4	48	5
Early retirement pension	43	5	30	3
Equal treatment	0	0	4	1
Ill-health pension	110	13	102	11
Incorrect/no payments	15	2	53	6
Membership conditions	16	2	10	1
Misleading advice	46	5	77	9
Preservation	0	0	1	1
Transfers	88	10	54	6
Winding up	5	1	11	1
Other	383	45	388	43
Total	847		889	

## Case Examples

Here are some examples of cases that we dealt with in 2010/11. All have been simplified. And they have been anonymised because not all of them are in the public domain. They illustrate the different ways we conclude cases and give a flavour of our “day to day” work. We have also included some of the more unusual cases that we have dealt with this year.

### Cases settled by agreement

Sometimes, during the course of our investigations, we are able to help the parties understand what has gone wrong and what needs to happen to put it right. As a result, some cases are resolved without the need for a formal determination by the Ombudsman, because everyone agrees. Here is an example:

#### **Redundancy no bar to ill health pension under scheme rules**

Mr D was made redundant and his employer gave ill health as one of the reasons. However, he was told that he could not have a full ill health pension because he had been made redundant.

The pension scheme regulations did not impose a bar on a member qualifying for an ill health pension on the basis of redundancy. We suggested to the administrator that the crux of the matter was that the member had to leave his job due to ill health, whatever the official reason might have been. The administrator agreed to reconsider its decision and consider Mr D’s ill health pension application.

### Reaching a decision even where there is very limited documentary evidence

We can reach a conclusion based on the balance of probabilities even if there is very little evidence, often due to the passage of time, as in the case below.

#### **Transferring between different schemes – following the paper trail**

Mr B told us that in the early 1990s he had transferred pension benefits held with two separate former employers to two separate pension policies held with an insurer (Insurer 1). Several years later, he had transferred one policy to another insurer (Insurer 2) and said that he had left the remaining policy invested with Insurer 1. Although HMRC’s National Insurance Contribution Office record confirmed that Mr B’s “protected rights” in respect of one of the pension transfers had been received by and remained with Insurer 1 that company had undergone several mergers over the years and they now had no trace of this or any other policy remaining in existence. Mr B produced a policy statement showing benefits with Insurer 1. There was some doubt that it would have been possible for Mr B to make the unusually high contributions to result in the amounts shown. Furthermore, Insurer 1 said that they considered that the statements indicated that the policies had been duplicated when the original transfer had been made. As a result, they said that their minimal records indicated that all Mr B’s funds had been transferred overseas to Insurer 2 or a related company in the late 1990s.

Insurer 1 did not accept that the policy statements produced by Mr B should be honoured.

There was very limited documentary evidence and in the particular circumstances of this case, the Ombudsman decided that, on the balance of probabilities he could not be satisfied that, the statements that Mr B produced proved that his full benefits were still vested with Insurer 1. However, Insurer 1 should reinstate the protected rights policy, subject to certain conditions.

## Disagreements about payments made when someone dies

We regularly deal with cases where there is a dispute about the discretionary payment of benefits on death. Our role is restricted to deciding whether the discretion has been exercised properly, not to deciding who should receive the benefit. Often the circumstances of such cases have been distressing and traumatic for those making the complaint and if so we may prioritise a case to try to ensure that further upset is kept to a minimum. Here is an example.

### **Duty to comply with scheme rules when administering death benefits**

Mr M was a member of the Reserved Forces Pension Scheme from mid 2007 until his death in Afghanistan towards the end of that year. He did not make any nomination to say who should receive any benefit from the scheme in the event of his death but he had made a will several months before his death naming his father as his sole beneficiary.

The scheme paid the death benefit lump sum to the late Mr M's girlfriend on the basis that she was a "surviving adult dependent" as defined in the scheme's rules. Mr M's father complained essentially on the grounds that the relationship with his son was not such that she should have received the benefit in preference to him.

However, the Ombudsman concluded that the decision maker had misconstrued the relevant rules. On close investigation, the late Mr M's girlfriend did not qualify as a person to whom the death benefit lump sum could be paid at all. She could only have been a potential recipient of the lump sum if Mr M had completed the necessary two years' service in the scheme to qualify her for a dependant's pension.

The Ombudsman directed that the lump sum payment should be made to the late Mr M's Estate, with interest. He also directed that a sum of £500 should be paid to Mr M's father as compensation for distress and inconvenience.

## Cases where the existence of a pension scheme is in question

Employers may make contractual arrangements for their retired employees to receive regular payments. Although there may not be a formal pension scheme established by statute or under trust, such arrangements can amount to a pension scheme under the legislation that applies to our jurisdiction. Here are some examples that have been considered this year.

### **Pension commitment established by contract of employment**

Mr R complained that his former employer had stopped making the small weekly pension payments he had been receiving since his retirement in 1991.

Mr R had worked all his working life (over 50 years) for the same business, and had received a personal oral assurance from the founder of the business that he would be “looked after” when he retired. During the course of his employment, he had also received letters which referred to a pension that he would be able to receive when he retired.

The arm of the business that had employed Mr R closed down in 2007 and the company wrote to him to say that his pension payments, by that stage just £20 per week, would stop. At the same time they enclosed a one off “redundancy” payment amounting to pension that he would have been entitled to in the following two years.

The Ombudsman concluded that Mr R’s pension arrangement was an unfunded, unapproved occupational pension scheme and that the company was under a contractual obligation to continue to make the payments. Although the arm of the business in which Mr R had been employed had closed, the company remained in existence and its accounts showed net assets in excess of £2m, which indicated that it was able to continue making payments to him. The Ombudsman directed the company to pay the arrears of pension due to Mr R, along with a payment of £300 for distress and inconvenience.

### **Pension benefits bought out in return for company shares**

The case in this example focussed on an employer’s arrangement to provide pensions to a group of employees where there was no official pension scheme, following the employer’s entering into liquidation. The employees complained that the employer had failed to provide pensions as specified in their employment contracts.

In the past, pensions had been paid to former employees from company profits as and when an employee retired. This was an accepted practice and was confirmed in the employees’ employment contracts.

However, in 2007, the employees signed an agreement and a deed that assigned company shares to them and purportedly removed the employer’s liability to pay pensions from company assets. The employees did not take legal advice at that time and it was only after the company went into administration and, later, liquidation, that they found the shares were in effect worthless.

The Ombudsman decided that the complaints should not be upheld. There had been no maladministration in the transfer of the shares or in the company no longer paying pensions from company assets. Even if the transfer of the shares had not take place, there would have been no fund from which contractual pension payments could have been made because the company had gone into liquidation. The Ombudsman explained that it was not his role to consider how the company was run or the reasons it had gone into liquidation.

## Misunderstandings and misinformation

A number of complaints that we deal with arise as a result of misunderstandings or misinformation about entitlements from a pension scheme. Sometimes, as in the example here, the Ombudsman finds that incomplete and/or inaccurate information has been given by an employer.

### **Employer provides incorrect information pre-retirement**

Mrs I complained that she had been given inaccurate information before leaving service as a teacher. She had applied for and been granted an ordinary early retirement pension. She said that her employer told her that she could go on to apply for an ill health early retirement pension within six months of leaving service (an ill health early retirement pension would be payable at a higher rate than an early retirement pension). Three days before she left service, she applied for an ill health early retirement pension.

Mrs I's employer did not pass on her application for an ill health early retirement pension to the administrators of the scheme straight away. When her application was finally submitted, the administrators told her that she could not apply for an ill health pension because she was already receiving an early retirement pension.

The Deputy Pensions Ombudsman concluded that Mrs I's employer had given her misleading and incomplete advice. In reality, she could only have applied for an ill health retirement pension within six months of leaving service if she was not in receipt of another retirement benefit. Had her employer ensured that she had access to clear and complete information, she would have been able to withdraw her application for an early retirement pension. The Deputy Pensions Ombudsman decided that Mrs I's application for an ill health pension should be considered and, if accepted, an ill health pension should be substituted for the early retirement pension she was already receiving.

## Where maladministration results in upset

Often maladministration can result in distress and/or inconvenience. In such cases, the Ombudsman may direct that a payment should be made to compensate for it. Usually such payments are relatively small – they are not intended to be a punishment – and there has been judicial guidance in the past to the effect that only exceptionally should such awards exceed £1,000. No amount of money can directly compensate for upset. In some cases, even in the light of this, the Ombudsman decides that an exceptionally high payment should be made for distress and inconvenience.

### **Distress and inconvenience payment for both the maladministration itself and the way the complaint was handled by the Scheme**

Mr J complained that he had been given incorrect information about the amount of his pensionable service within the Scheme. He said that he had relied on this information when deciding to retire and emigrate. If Mr J had accrued 25 years' service within the scheme, he would have been permitted to retire on an unreduced pension from the age of 50.

Mr J had several periods of service which had been linked together wrongly in 2000, resulting in a notional period of continuous service starting in 1981. In fact, the notional period should have started in 1985, but this was not noticed.

In 2005, Mr J sought advice and obtained forecasts of his pension entitlement. He made plans to retire in 2007 and said that he confirmed with the scheme administrator that he would be able to receive an unreduced pension any time from early 2006. Later in 2006, he went on paid leave and emigrated. His formal resignation was effective from mid 2007. Shortly before his resignation was due to become effective, the scheme administrator informed him of the correct retirement pension figures. Although Mr J initially asked to retract his resignation, it was not possible to agree a date for return to service and his resignation was later confirmed as mid 2007.

The Ombudsman concluded that the 2007 consequences of the error made in 2000 were not reasonably foreseeable. Mr J could have noticed the error in late 2006 and checked the accuracy of details held about him, but by then his plans had reached an advanced, but not irrecoverable, stage. The Ombudsman considered the value that could be placed on the distress and inconvenience that Mr J had been caused, along with the insensitive way the error was handled when it came to light. Given the highly unusual circumstances of the case, he directed that a payment of £5,000 should be made.

## When losses arise as a result of delay

A significant number of complaints that we consider arise as a result of delays in processing a request for a transfer. Where we find that the delay was maladministration, the Ombudsman will direct that the party/parties responsible for the delay take action to ensure that losses are put right. In the following example, the central issues to a number of complaints were considered together so that a decision could be made on each individual case at the same time.

### Investment delays leads to loss

28 people complained about a delayed bulk payment from their old pension provider to their new pension provider. The respondents to the complaints were the original pension provider, the new pension provider and the administrators. There was a misunderstanding about the rules relating to the pension product the members were proposing to transfer into. The initial transfer payment occurred in advance of the necessary paperwork being signed off. As a result, the new provider was unable to allocate funds to the members' pension accounts.

Further delays occurred as a result of winding up the original pension arrangement and discrepancies in the official paperwork. These resulted in funds being returned to the original pension provider and held in a suspense account. After some months, the correct paperwork was finalised and the funds were allocated by the new provider. However, by this point there had been a financial loss because of the eight month investment delay.

The Deputy Pensions Ombudsman pointed out that the transfer to the new provider had been flawed, as legislation at that time prohibited deferred and pensioner members from transferring to the new scheme. She concluded that the respondents had collectively failed in their responsibility to ensure that the bulk payment process was successful. She upheld all 28 complaints and directed the three respondents to make payments to each member's new pension account to make good the loss that occurred as a result of the eight month investment delay. The total loss was around £39,000, which was shared between the three respondents, with interest according to their contribution to the delay. She also directed each of the respondents to make a payment of £40 to each member (a total of £120 per member) for distress and inconvenience as a result of their maladministration.

## Eligibility to be a member of a pension scheme

Sometimes people apply to the Ombudsman because they believe they have been wrongly denied membership of a pension scheme. Here is one example.

### **An out of court settlement without admission of liability cannot be used to prove disputed facts**

Mr L had been engaged as a part time teacher on a number of fixed term contracts. He considered that he was, therefore, employed. When his services were no longer required, he applied to an employment tribunal because he believed that he should be entitled to a redundancy payment and various other payments. His employer settled his claim with no admission of liability prior to a tribunal hearing.

Mr L then claimed a pension from the scheme on the basis that he should be treated no less favourably than someone who had been employed on a permanent contract. He said that the fact that his employer had settled his tribunal application and deducted tax and national insurance contributions whilst he had been employed meant that they accepted he had been one of their employees.

The Deputy Pensions Ombudsman concluded that Mr L did not meet the eligibility requirements for the scheme because he had not been engaged/employed on terms that would have made him eligible. She pointed out that claims to the employment tribunal are frequently settled for pragmatic reasons.

## An application by a sole trustee of an occupational pension scheme

Under the legislation which gives us our powers, the Pensions Ombudsman may investigate and determine any question relating, in the case of an occupational pension scheme with a sole trustee, to the carrying out of a function of that trustee. In practice, very few cases of this nature are brought to the Ombudsman. This was one of those unusual cases.

### **Sole trustee looking for Ombudsman assistance**

Mr N was the sole trustee of the scheme. He had to make a death benefit payment from the scheme and needed to decide whether that benefit should be paid to the deceased person's former wife or his widow (his second wife). He asked the Ombudsman to decide whether the provisions contained in a court order between the deceased person and his former wife amounted to a nomination (as opposed to a directive which is what the former wife argued for) and whether the court order had, in fact, been superseded by the terms of his later will in favour of his widow.

The Ombudsman determined that Mr N was entitled to regard both the court order and the will as containing nominations by the deceased person as to whom his fund was to be paid on his death. The Ombudsman could not tell Mr N how to exercise his discretion but recognising that he was faced with a difficulty in the exercise of his function as a sole trustee, he made some observations to assist.

## An interesting but unusual case

Many cases arise from a unique set of circumstances – but of course are every bit as significant to those concerned as more typical cases. Here is just one example.

### **Insurer's failure to obtain valid discharge**

Ms G complained that her late father's annuity had been fraudulently claimed by his estranged wife. She said that his signature had been forged and his annuity payments had been made into a joint account in his and his estranged wife's name without his knowledge, as her late father (Mr H) had been illiterate.

Although Mr H had been illiterate, he had been able to sign his own name. Before he died, his estranged wife had telephoned the insurer to ask how he might access his benefits and a claim form was subsequently received, purportedly signed by him. The form requested that his pension and lump sum should be paid to a joint account in his and his wife's names.

Several months later, having by then divorced, Mr H contacted the insurer to ask that his future pension be paid into an account in his sole name. He then alleged fraud against his former wife but died before this could properly be investigated by the insurer.

The Ombudsman concluded that the signature on the claim form was different from those on other relevant documents held by the insurer and so evidently was not Mr H's. He decided that the insurer should have identified that the signature was not authentic and, for this and other reasons, there had been maladministration.

The insurers paying the annuity claimed that payment of the benefit into a joint account bearing Mr H's name discharged their liability. But the Ombudsman concluded that it was only a presumption that the contents of a joint account are held on trust by the account holders as "joint tenants". Therefore, payment into such an account could not automatically discharge the insurer's liability. He decided that the insurer had not received an effective discharge and Mr H's Estate was entitled to such benefit as would have been paid on his death, less the lump sum and annuity payments that he had benefited from during his lifetime.

## Appeals and judicial review applications

### Pensions Ombudsman Appeals

Appeals outstanding at the start of the year	5
New notices of appeal received	10
Appeals heard/settled etc during the year	10
Appeals remaining at year end	5

Determinations are subject to appeal on a point of law. There were ten new appeals lodged in the year, of which all but two were from complainants. The Pensions Ombudsman (or Deputy) should not normally be named as a party – although sometimes we are and will then take steps to have ourselves removed. We occasionally participate to assist the court if, and to the extent that, there may be wider consequences for the office (usually in relation to powers or jurisdiction). There is a risk in not participating. It is always possible that a point will arise that may have unexpected consequences – and judges are, perhaps inevitably, more familiar with formal adversarial process than the informal and inquisitorial ombudsman approach. This year, wisely or not, we did not participate in any hearings.

Three appeals were abandoned or withdrawn, two were dismissed, four were successful at least in part and in one case the parties settled the appeal between themselves. There are two appeals that deserve mention.

#### *Molyneux v Department for Children, Schools and Families [2010] EWHC 263(CH).*

This appeal was brought by the respondent, the Department for Children Schools and Families (DCSF) (as it was then). It involved the extent of the obligation, if any, of the DCSF to consider not only the medical evidence accompanying an application for ill health retirement from a teacher but also to seek further information or medical advice. An additional issue was whether the applicant had to establish that all treatments had been exhausted.

The appeal was successful. Further comment should wait, as Mrs Molyneux has obtained leave to appeal to the Court of Appeal and the hearing is due to take place later in 2011/12. It has been relatively unusual in recent years for appeals to go beyond a first instance decision.

#### *Catchpole v Trustees of the Alitalia Airlines Pension Scheme and another [2010] All ER (D) 176 (Jul)*

This was an appeal on a point of law (as it could only be) which succeeded as a challenge to a finding of fact. Mr Catchpole's long term partner had asked if his entitlement to a pension on her death would be affected by the fact that they were not married. Incorrectly, she was told it would not. When she died, no pension was payable. The Ombudsman's determination was that it could not be decided that they would have married, if they had been correctly informed that marriage was necessary for a pension to be payable on death. Mr Justice Warren substituted his own, opposite, view, saying "... the decision of the Pensions Ombudsman on the evidence before him was not one which he could properly have reached."

## Judicial Review applications

Judicial Review Applications outstanding at the start of the year	4
New Judicial Review Applications received	1
Judicial Review Applications dealt with	4
Judicial Review Applications remaining at year end	1

This year we received only 1 new judicial review application, whereas in the previous year we received an unusual number of applications for judicial review in a short space of time, for no obvious reason. Apart from the one application which is outstanding (because there is a chance the parties to the original complaint might settle) and one case where permission was granted at a reconsideration hearing, permission to proceed was refused. The application to which permission was given concerned a decision not to investigate a complaint on the grounds of overlap with a previously determined matter. It did not proceed to a full hearing as we agreed to investigate the complaint in the light of the judge's comments.

## 2.2 Pension Protection Fund Ombudsman Casework Review

### Pension Protection Fund (PPF)

The Pension Protection Fund Ombudsman can review decisions made by the Board of the Pension Protection Fund (PPF); and investigate and determine complaints of maladministration on the part of the PPF.

The PPF Ombudsman also has jurisdiction to determine appeals against decisions made by the scheme manager of the Financial Assistance Scheme (FAS) relating to eligibility to receive compensation from the FAS. There is no jurisdiction for the PPF Ombudsman to deal with complaints of maladministration against the scheme manager of the FAS. The reason is that the original scheme manager was the Department for Work and Pensions (DWP), whose administrative role is firmly within the jurisdiction of the Parliamentary Ombudsman. But since 9 July 2009 the scheme manager of the FAS has been the Board of the PPF which is within the PPF Ombudsman's jurisdiction in relation to administration of compensation. Preliminary steps have been taken towards removing the anomaly and, at the time of publication, DWP are consulting on the FAS maladministration jurisdiction being transferred to the PPF Ombudsman. Jurisdiction is not likely to be transferred before 2012/13 however.

#### Reviewable matters

The PPF Ombudsman may only consider an application after it has been reviewed by the PPF Board and been considered by their Reconsideration Committee.

During the year we received 36 new applications to review reviewable matters. We accepted 31 for investigation. Jurisdiction was declined in five cases, all because they had not been previously dealt with by the PPF Reconsideration Committee.

In all, 42 applications were closed following investigation. As in previous years the complaints almost exclusively related to how the risk based levy had been calculated.

As with Pensions Ombudsman cases, we have taken further steps towards proportionate approaches to PPF Ombudsman cases – and in particular to levy related cases which in the past were, in every case, dealt with by a formal and sometimes lengthy determination. Now investigators may, in suitable cases, write a letter setting out their view of the application, which may be endorsed by an Ombudsman in due course.

#### Complaints of maladministration

During the year, four complaints of maladministration were received. Of these, three were rejected on jurisdiction grounds. The one case that was accepted is still being investigated.

#### Case Examples

The vast majority of PPF Ombudsman cases to date have related to how the PPF risk based levy has been assessed. Under the legislation which sets PPF Ombudsman's powers, the calculation of the levy is a referable matter. The determination by the PPF Board of how the levy is to be calculated is not. In effect, the PPF Ombudsman considers whether the Board has complied with its determination.

This year we have dealt with several applications where trustees have disagreed with the calculation of their Scheme's risk based levy in successive years. There was, until 2010/11, almost an incentive to instigate a review. The levy did not need to be paid until the review process has been completed in its entirety and there were no penalties for late payment.

### **Incomplete grounds for referring an application to the PPF Ombudsman**

One trustee referred the calculation of the levy in four successive years to the Ombudsman for consideration. On each occasion, the trustee gave identical but very brief grounds for the referral and was unable or unwilling to provide full grounds, even when specifically requested to do so. Whilst the Ombudsman was content to deal with the four applications in fairly quick succession, he did not consider that any of them had merit and suggested that he might take a somewhat stricter view on whether to accept any subsequent referrals from the Scheme where grounds were not clear and specific. The Ombudsman did not uphold the first four referrals and the trustee decided to withdraw a fifth referral that had been made with similarly incomplete grounds.

### **Case remitted to the PPF for reconsideration**

In 2010/11, for the first time, the Ombudsman remitted a case involving the calculation of a risk based levy to PPF's Reconsideration Committee, with directions to revoke the previous calculation and give clear reasons for their new decision on the calculation.

The pension scheme was a large one with four participating employers. The trustee of the scheme asked the Ombudsman to consider applications relating to how the levy had been calculated by the PPF in two successive years. The application relating to the first year, but not the second, was remitted to be reconsidered by the PPF.

For the first year, the trustee received an invoice from the PPF for a levy of £4.5m. After receiving it, the trustee realised that its arbitrary allocation of dependant pensioners (people receiving benefits following the death of the member) to the largest participating employer had caused the levy to be some £500,000 higher than it should have been. The trustee applied to the PPF's Reconsideration Committee to review the calculation of the levy.

The PPF's Reconsideration Committee determined that the data on which the calculation had been based was "correct and legitimate in itself" and that, on this basis, they had no discretion and it was not possible for them to review the levy calculation. Despite this, the Reconsideration Committee went on to consider whether it would have exercised discretion if the data had been incorrect, and decided that it would not have. During the course of our investigation, the PPF accepted that its Reconsideration Committee had been wrong in finding that there had been no discretion available to review the levy calculation.

The Ombudsman concluded that it was doubtful that the data on which the calculation had been based was "correct and legitimate in itself". However, most importantly, he determined that the PPF's Reconsideration Committee had indeed been wrong in finding that they had no discretion to review the levy calculation in the first year. (In the second year, the Committee had exercised its discretion not to review the levy calculation; there had been no confusion as to whether or not the discretion existed. Furthermore, the reasoning given for the decision had been clearer than in the first.) The Ombudsman observed that, in the first year, there had been some confusion about this, which was illustrated by the fact that the Committee had considered whether it would have exercised discretion, had discretion existed. He considered that the scheme was entitled to clarity as to the basis of the decision and that the Board should not have "hedged its bets".

The scheme strongly argued that the levy as calculated was unfair and that the Ombudsman should direct the PPF Board's decision. The Ombudsman commented on a number of suggestions about how he should exercise the powers available to him within the legislation. He noted that his powers were clearly set down and, therefore, it was not open to him to provide remedies that were not strictly within the bounds of that legislation. In addition, although a range of remedies might be available to him, he needed to decide on a remedy which was suitable for the particular case in question.

## Financial Assistance Scheme (FAS)

FAS cases potentially fall into two main categories: whether a scheme is eligible to be accepted by FAS and whether the member has received the correct entitlement.

During the year we received two FAS enquiries. Neither was accepted for investigation. The first because it was a complaint of maladministration involving the FAS, so we referred the complainant on to the Parliamentary Ombudsman. The second was not accepted for investigation because the matter had not been taken up with the FAS first.

## PPF Ombudsman Appeals

### **Trustees of the Lithgows Limited Pension Scheme v The Board of the PPF (2011) CSIH 6 XA 170/09**

In November 2010 the first appeal against one of the Ombudsman's determinations of a reviewable matter was heard in the Court of Session in Edinburgh. The appeal (in which we did not participate) was refused and, in summary, confirmed that there is no right of review of the PPF Determination, only of the calculation of the levy.

## 2.3 Resources

We have in place a “framework document” which describes our relationship with the DWP as the funding department. It provides for broad operational independence, subject to a pre-agreed budget, objectives and performance measurement criteria. We had a draft business plan and budget for the year, which was approved and published at the end of June after a delay caused by the General Election.

But regardless of the framework and budget, we were, like central government bodies generally, subject to a range of spending constraints, including freezes on consultancy spending, on advertising and marketing, and restrictions on recruitment and pay awards. Over time some relaxations and delegations emerged. But the effect on us as a small organisation, relying as we do on external suppliers for all but essential support functions, was significant.

For example, it became quickly apparent that the interpretation of the scope of the advertising and marketing restrictions went wider than the description suggested. Included were almost all external communications (and some internal). We had planned to arrange a secure communication facility for our users via our website, the support of which is managed by an outside supplier – because we do not have or need internal resource. But websites were included in the advertising and marketing ban. If we had managed our website internally (almost certainly at greater cost than using external suppliers) we could have done the work unaffected by the restrictions.

There were further consequences, described later in this section, for our commissioning of new IT systems and support, and for our investigative resource.

We also, of course, fell within the remit of the comprehensive spending review and were asked to put in figures showing substantial reductions in planned expenditure from 2011/12 onwards. We did so, but the related work and uncertainty delayed some other work – in particular on our IT replacement project.

The aim of the measures was to save money, and in that respect they worked. The overall financial effect was that we underspent our budget by just under £362,000, or about 12%.

## 2.4 Our People

### Staffing

We started the year with 35.70 full time equivalent staff and ended it with 33.95 (not including the Pensions Ombudsman and Deputy Pensions Ombudsman). We had one person on maternity leave until January 2011.

In May, after the General Election, the ban on outside recruitment to the Civil Service came into effect and applied to us.

That had an adverse effect because at the beginning of the year, just before the recruitment restrictions, we had lost two long standing members of staff: a senior investigator and a legal investigator. We found we could not easily recruit replacements from inside the Civil Service. At the end of the year the legal investigator vacancy was still unfilled (although we now have approval to search more widely).

Other spending restrictions affected staffing. We deliberately have a very small “back office” (four people) and outsource a lot of our business support functions: for example, website management, accounts, payroll and IT support. We had planned to use consultants to help us undertake various activities relating to the IT improvement project we began in the year, and that will carry forward into 2011/12 (see 2.5). We were unable to do so and therefore used more internal investigator resource on project activities than we had planned. We effectively ended up taking a senior investigator away from complaints handling work for the last quarter of the year.

The overall consequence was that we were effectively two investigators below establishment for the majority of the year, representing a loss of investigative capacity of about 10%.

## **Pay**

We immediately fell within the two year pay freeze announced by the Government in May, as we had not fixed a settlement before it came into force. (For us it will cease to apply in 2012/13). The terms of the freeze included minimum consolidated increases for those earning under £21,000. We also rewarded in 2010/11 exceptional performance in the previous year with modest non-consolidated performance awards. The aggregated cost of consolidated and non-consolidated awards was 1% of payroll.

## **Sickness**

Average sickness was 3.3 days per person, which was below the previous year’s figure of 4.5 (though that was unusually high for reasons mentioned in last year’s report).

## **Grading**

Following an external review, we decided to change our grading structure. We had followed the grades used by DWP, but as our pay awards no longer follow theirs, the link between pay and grades was lost. We took the opportunity to make our own grades more flexible, in particular including two linked grades to make internal progression a more achievable aim.

## **Performance management**

During the year we reviewed and replaced our existing performance management framework. The previous system was orientated towards tasks and outputs. We wanted to be able to acknowledge wider contributions to the office, and to establish and recognise behaviours consistent with our aims and principles.

## 2.5 Projects and policies

### Casework process guide

A milestone for us this year has been the introduction of a Casework Process Guide. The Office has been in existence for 20 years without one. It has been on the 'to do' list for some time, but other things have taken priority.

The purpose of the guide is to be a general training and development tool, to promote consistency of service, and to provide quality management support. Having put it in place an internal audit of our casework processes was undertaken. We received a reasonable assurance which was very pleasing bearing in mind this was the first audit of this nature for some time. The auditors particularly commented on the existence of the Casework Process Guide and our new Quality Management processes (see below) as contributing to the assurance level given.

### Quality management

We introduced a number of new quality management checks during the year aimed at assessing the quality of our service at various points in the process: from the presentation of letters, to the way we handle first contact telephone calls, through to the way we handle cases, including how we keep in touch with parties. In the forthcoming year we intend to introduce a further quality management check which will look at how the case has been handled from start to finish. These checks are providing us with valuable assurance and enabling us to identify areas where we can improve the level of service we can provide, on an individual basis or more generally.

### IT

The year saw the beginning of work to replace our IT systems and external support arrangements, the present contracts for which expire on 1 October 2011. We are not in a position to extend our managed service contract with our existing lead supplier, Siemens, even if we wanted to. It is in fact (for historical reasons) a contract between them and the DWP. And the contract was entered into under a framework that no longer exists, which apparently prevents extension.

As explained under "Resources" above, uncertainties relating to the Comprehensive Spending Review and its outcome placed us somewhat on the back foot. We knew we had to do something but the extent of what we might do was dependent on the budget available.

In September 2010 we formally reached the conclusion (confirming a provisional view) that our casework management system was not fit for purpose. We had seen some potential providers and began inviting other potential providers to demonstrate their products.

In December 2010 we undertook an exercise to map our casework processes end to end. The purpose was to inform the technical requirements specification for any procurement exercise, with the side benefit of potentially identifying opportunities for further efficiencies in process.

Having gathered together our technical requirements, at the end of February 2011 we invited expressions to tender to provide us with IT support, and systems to deal with casework management, document and records management and management information. In addition our IT hardware is at the end of its life and we plan to undertake a hardware refresh during next year.

The closing date for bids was 1 April 2011 and we started 2011/12 evaluating the bids received. We are, however, behind where we should have been, for the reasons explained above. We are likely to run past the contract end date of 30 September with at least some temporary contingency arrangements in place.

## 2.6 Other Management Activities

### Customer satisfaction survey

Over the year we worked with the DWP research group to design an online customer satisfaction survey. (We will be able to produce paper versions for those without internet access.) The survey will invite feedback from users, or their representatives, at various stages throughout the process from first contact, to when the case has been investigated and determined. The questionnaire is being tested at the time of writing this report and will be implemented during 2011/12.

### Awareness survey

We took advantage of the opportunity to be included in a general awareness survey being carried out by the Parliamentary and Health Service Ombudsman. 1,975 people responded to the survey. Of those 1,975, 23% were aware of our existence. 24% of those who knew about us had found out about us through a national newspaper and 12% through their pension provider, but only 2% of those who knew about us had ever contacted us. We will be considering in 2011/12 what, if any, steps are necessary following the survey.

### Liaison

To strengthen our relationships with some of the pension schemes that we deal with most, we asked some of our investigators to be the designated “relationship managers”. Their role is to open lines of communication so that schemes can discuss generic problems with us, understand our processes better and to generally oil the wheels. It is *not* a forum for discussion of actual cases behind the scenes. We guard our actual independence, and even just the perception of it, very carefully. We are grateful to the schemes in question (the Armed Forces Pension Scheme, the National Health Service Pension Scheme, the Principal Civil Service Pension Scheme, and the Teachers’ Pension Scheme) for entering into the initiative. It is still somewhat experimental; and we have struggled a little to make it work in the private sector because it is so much more fragmented. But the early signs are very encouraging.

The industry liaison group, which is run independently, meets roughly twice a year to discuss a range of topics, including our corporate plan and annual report. Towards the very end of the year with our support the group conducted an informal survey inviting feedback from the groups they represent. The responses mainly came from pension lawyers. There were no real surprises. The main issues were how long it takes us to deal with cases and how effective we are in keeping parties aware of what is happening during the investigation. We will bear those in mind when reviewing our processes and consider how we can better meet or manage parties’ expectations in these areas. There was, encouragingly, no negative feedback relating to our efforts to be less formal in our dealings and decision making. Indeed there was some frustration at our inability, for security reasons, to communicate by email.

We maintain good relationships with the Pensions Advisory Service, both day to day on cases that move between us and at senior levels on broader issues. We also have good relationships with the Pensions Regulator – and have taken steps to make sure that we keep each other informed on developments in the run up to auto-enrolment from 2012.

We also benefit from our membership of the British and Irish Ombudsman Association. Being able to discuss policy and practical matters with colleagues with similar issues is invaluable.

## Key performance indicators

Our key performance indicators compliment our goals for output over the year. They are exclusively directed towards monitoring efficiency. (Quality is dealt with through a separate system). The KPIs for 2010/11 are set out below, with, for ease of reference, the end year position in each case.

KPI	Target	at 31 March 2011
• average response time to initial enquiries	3 days or less	2.47 days
• number of enquiries in hand	200 or fewer	204
• average time taken to decide whether or not to investigate	10 weeks or less	10.18 weeks
• average age of open investigations	24 weeks or less	28.9 weeks
• average time taken to complete an investigation	10 months or less	9.8 months
• number of cases more than 12 months old	20 or fewer	32
• number of cases more than 24 months old	None	2
• ratio of all closed cases to expenditure	£880	£832
• ratio of closed investigations to expenditure	£3,430	£3,162

## Risks and uncertainties

We have an agreed risk strategy and manage risks at strategic and operational levels.

Strategic risks identified during the year concerned (not in order of likelihood or impact):

- relationships with key stakeholders;
- harm to service delivery caused by spending controls and restrictions (including impact of the public sector spending review);
- governance and management controls;
- financial controls and systems;
- financial resource;
- compliance with employment law;
- keeping pace with external issues and changes in pensions;
- casework input and throughput;
- quality of case decision making;
- IT systems;
- business continuity;
- data security;
- resilience of suppliers.

## Social and community issues

We continue to take green or sustainable options when possible. During the year we switched from supplying staff with bottled water in coolers to mains water.

## Data protection and security, freedom of information and transparency

There were no data protection events needing to be reported to the Information Commissioner. All new staff are required to complete on line training and all staff undertake refresher training annually.

This year we updated our Information Management Policy and underwent an internal audit of how we manage and control data belonging to our service users. We received a reasonable assurance.

We comply with the new requirement to publish expenditure information in a prescribed format on our website.

## Complaints about us

Complaints about the service we provide, rather than the outcome of a case, are dealt with under our internal complaints process.

We endeavour to deal with complaints at the earliest opportunity and as informally as possible. But where a party remains dissatisfied with the service provided to them they may complain to our Casework Director who will consider the complaint and provide a written response. If the complaint is about the Casework Director then it will be dealt with by either the Pensions Ombudsman or Deputy Pensions Ombudsman.

Not uncommonly parties want to use the internal complaints process as a way of airing their dissatisfaction about the outcome of a case, for example the way the Ombudsman has considered the evidence and the conclusions reached. However, the proper process for those dissatisfied with an Ombudsman's determination is appeal on a point of law to the appropriate court.

But of course complaints about the service we have provided and/or the outcome of a case can sometimes be inextricably linked – for example this sometimes manifests itself in the person saying that the Ombudsman (or an investigator) has not been impartial, the case has not been robustly investigated or proper weight has not been attached to certain elements of evidence.

A party dissatisfied with our service may, having first asked us to review their complaint under our own internal complaints procedure, refer the matter to the Parliamentary Ombudsman, via their Member of Parliament. As with our internal complaints process the Parliamentary Ombudsman will not deal with a complaint about outcome.

We received 15 formal complaints about our service this year, one of which was partially upheld. There will have been expressions of dissatisfaction on top of those, not recorded as formal complaints.

We see complaints as learning opportunities and as a result of complaints received this year we have provided advice and guidance to staff on the tone of letters, and on providing regular feedback to parties whilst the complaint is being investigated.

We are aware that a number of parties did make complaints to the Parliamentary Ombudsman about the service we had provided. However, no formal investigations about our service were undertaken by her office.



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## **Disclosures**



## **Section 3: Disclosures**

### **3.1 Statutory background**

The Pensions Ombudsman is a statutory commissioner appointed by the Secretary of State for Work and Pensions under section 154 of the Pension Schemes Act 1993. The jurisdiction and powers of the Pensions Ombudsman are derived from Part X of the Pension Schemes Act 1993 and regulations thereunder.

The Ombudsman for the Board of the Pension Protection Fund (the Pension Protection Fund Ombudsman) is a statutory commissioner appointed by the Secretary of State for Work and Pensions under section 209 of the Pensions Act 2004. The jurisdiction and powers of the Pension Protection Fund Ombudsman are contained in sections 209 to 218 of the Pensions Act 2004 and regulations thereunder.

The respective legislation also provides for the appointment by the Secretary of State for Work and Pensions of a Deputy Pensions Ombudsman and a Deputy Ombudsman for the Board of the Pension Protection Fund (Deputy Pension Protection Fund Ombudsman).

At present the postholder of Pensions Ombudsman also holds the post of Pension Protection Fund Ombudsman. Similarly, the Deputy Pensions Ombudsman also holds the post of Deputy Pension Protection Fund Ombudsman.

The Government has announced, under the Public Bodies Reform Agenda, that the separate functions of the Pensions Ombudsman and the Pension Protection Fund Ombudsman are to be merged. The date of such a merger is as yet uncertain.

### **3.2 Other interests**

Neither the Pensions Ombudsman nor the Deputy Pensions Ombudsman had any significant external interests that conflicted with their management responsibilities.

### **3.3 Accounting and audit**

The accounts have been prepared under a direction issued by the Secretary of State for the Department for Work and Pensions in accordance with Section 145(8)–(10) of the Pension Schemes Act 1993 and section 212A of the Pensions Act 2004 as inserted by the Government Resources and Accounts Act 2000 (Audit of Public Bodies) Order 2008.

There are no significant future net liabilities that will be financed by grant-in-aid.

Details of the treatment of pension liabilities in the accounts can be found in the Remuneration Report, in the accounting policies and note 3.

The office has a policy of paying invoices within 10 days and monitors compliance with it. The process is such that invoices are in fact paid within a maximum of five working days, unless there is a query on the invoice.

The auditors did not receive any remuneration for non-audit work.

So far as the Pensions Ombudsman is aware, there is no relevant audit information of which the auditors are unaware, and the Pensions Ombudsman has taken all the steps that he ought to have taken to make him aware of any relevant audit information and to establish that the auditors are aware of that information.

A handwritten signature in black ink, appearing to be 'Tony King', written in a cursive style.

**Tony King**  
Pensions Ombudsman  
Pension Protection Fund Ombudsman  
23/6/2011

**4**

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# **Financial Statements**



## Section 4: Financial Statements

### 4.1 Remuneration report

#### Remuneration policy

In accordance with Sections 145 and 145A of the Pension Schemes Act 1993, the current and future remuneration of the Pensions Ombudsman and the Deputy Pensions Ombudsman is determined by the Secretary of State for Work and Pensions. The current and future remuneration of the Pension Protection Fund Ombudsman and Deputy Pension Protection Fund Ombudsman is determined by the Secretary of State in accordance with Sections 209(4) and 210(6) of the Pensions Act 2004. For the year 2009/10 (paid in the 2010/11 accounting year) the Ombudsman's payments included a bonus element of up to 10% of salary as assessed by the Departmental Steward on behalf of the Secretary of State.

#### Service contracts

The length of service contracts is determined by the Secretary of State for Work and Pensions. Tony King was reappointed for a further 3 years on 1 September 2010. Jane Irvine was appointed on a part time basis for 3 years on 18 November 2009.

Name	Dates of initial appointment	Unexpired term	Notice period
Tony King	1 September 2007	2 years 5 Months	6 months from employee
Jane Irvine	18 November 2009	1 year 7.5 months	6 months from employee

Each appointment may be terminated early by employer on the following grounds:

1. Misbehaviour
2. Incapacity
3. Bankruptcy or arrangement with creditors.

Any decision to remove on one or more of the above three grounds will be taken by the Secretary of State with the concurrence of the Lord Chief Justice. No compensation will be paid if the appointment is terminated on any of the grounds set out above. Should the appointment be terminated on the basis of misbehaviour one month's notice will be given. Where conduct is so serious as to warrant immediate removal from office pay in lieu of notice will be paid.

The notice periods shall not prevent the Ombudsman, Deputy Ombudsman or Secretary of State waiving the right to notice or the Ombudsman or Deputy Ombudsman accepting a payment in lieu of notice.

#### Salary and pension entitlements

The following sections provide details of the remuneration and pension interests of the Pensions Ombudsman and Deputy Pensions Ombudsman.

The information in these tables is subject to audit.

## Remuneration

	2010/11			2009/10	
	Salary (£000)	Bonus (£000)	Benefits in Kind (to nearest £100)	Salary (£000)	Benefits in kind (to nearest £100)
Tony King	£120 – £125	£5 – £10**	0	£135 – £140*	0
Jane Irvine	£30 – £35	0	0	£10 – £15***	0

\* The salary figure includes bonuses paid in 2009/10 that were earned in 2008/09

\*\* Paid in 2010/11 but earned in 2009/10.

\*\*\* Appointed 18 November 2009 so part year only.

## Pension Benefits

	Accrued pension at age 65 as at 31/3/11 and related lump sum 31/3/11 (£'000)	Real increase in pension at age 65 and related lump sum at pensions age (£'000)	CETV at 31/3/11 (£'000)	CETV at 31/3/10 (£'000)	Real Increase in CETV (£'000)
Tony King	45 – 50 0	0 – 2.5 0	843	772*	9

\* This figure is different from that disclosed in the 2009/10 accounts as the way CETVs are calculated changed in 2010 as well as CPI being used instead of RPI.

Jane Irvine does not receive any pension benefits as a result of her appointment.

## Cash Equivalent Transfer Values

A Cash Equivalent Transfer Value (CETV) is the actuarially assessed capitalised value of the pension scheme benefits accrued by a member at a particular point in time. The benefits valued are the member's accrued benefits and any contingent spouse's pension payable from the scheme. A CETV is a payment made by a pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement when the member leaves a scheme and chooses to transfer the benefits accrued in their former scheme. The pension figures shown relate to the benefits that the individual has accrued as a consequence of their total membership of the pension scheme, not just their current service in a senior capacity to which disclosure applies. CETVs are calculated in accordance with The Occupational Pension Schemes (Transfer Values) (Amendment) Regulations and do not take account of any actual or potential reduction to benefits resulting from Lifetime Allowance Tax which may be due when pensions benefits are taken.

## The real increase in the value of the CETV

This is effectively the element of the increase in accrued pension funded by the Exchequer. It excludes increases due to inflation and contributions paid by the individual and is worked out using common market valuation factors for the start and end of the period.

## Civil Service Pensions

Pension benefits are provided through the Civil Service pension arrangements. From 30 July 2007, members may be in one of four defined benefit schemes; either a 'final salary' scheme (**classic, premium or classic plus**); or a 'whole career' scheme (**nuvos**). These statutory arrangements are unfunded with the cost of benefits met by monies voted by Parliament each year. Pensions payable under **classic, premium, classic plus** and **nuvos** are increased annually in line with changes in the Consumer Prices Index (CPI). Members who joined from October 2002 could opt for

either the appropriate defined benefit arrangement or a good quality 'money purchase' stakeholder pension with a significant employer contribution (**partnership** pension account),

Employee contributions are set at the rate of 1.5% of pensionable earnings for **classic** and 3.5% for **premium**, **classic plus** and **nuvos**. Benefits in **classic** accrue at the rate of 1/80th of final pensionable earnings for each year of service. In addition, a lump sum equivalent to three years' pension is payable on retirement. For **premium**, benefits accrue at the rate of 1/60th of final pensionable earnings for each year of service. Unlike **classic** there is no automatic lump sum. **Classic plus** is essentially a hybrid with benefits for service before 1 October 2002 calculated broadly as per **classic** and benefits for service from October 2002 worked out as in **premium**. In **nuvos** a member builds up a pension based on his pensionable earnings during their period of scheme membership. At the end of the scheme year (31 March) the member's earned pension account is credited with 2.3% of their pensionable earnings in that scheme year and, immediately after the scheme year end, the accrued pension is uprated in line with CPI. In all cases members may opt to give up (commute) pension for lump sum up to the limits set by the Finance Act 2004.

The **partnership** pension account is a stakeholder pension arrangement. The employer makes a basic contribution of between 3% and 12.5% (depending on the age of the member) into a stakeholder pension product chosen by the employee from a panel of three providers. The employee does not have to contribute but where they do make contributions, the employer will match these up to a limit of 3% of pensionable salary (in addition to the employer's basic contribution). Employers also contribute a further 0.8% of pensionable salary to cover the cost of centrally provided risk benefit cover (death in service and ill health retirement).

The accrued pension quoted, is the pension the member is entitled to receive when they reach pension age, or immediately on ceasing to be an active member of the scheme if they are already at or over pension age. Pension age is 60 for members of **classic**, **premium** and **classic plus** and 65 for members of **nuvos**.

Although the PCSPS is unfunded, employer contributions are set at the level of contributions that would be paid by private sector employers to pension schemes for their employees. For 2010/2011, employers' contributions were payable to the Principal Civil Service Pension Scheme in the range 16.7% to 24.3% of pensionable pay. From 1 April 2011 the percentages remain the same but the salary bands are as follows:

Band	2010-2011		From 1 April 2011	
	Salary Band (£)	Rate of charge	Salary Band (£)	Rate of charge
Band 1	21,000 and under	16.7%	21,000 and under	16.7%
Band 2	21,001 to 43,000	18.8%	21,001 to 43,500	18.8%
Band 3	43,001 to 74,000	21.8%	43,501 to 74,500	21.8%
Band 4	74,001 and above	24.3%	74,501 and above	24.3%

Further details about the Civil Service pension arrangements can be found at the website [www.civilservice-pensions.gov.uk](http://www.civilservice-pensions.gov.uk)

Further staff cost disclosures are included in the notes to the accounts staff note 3. The financial disclosures within the Remuneration Report are subject to audit.



**Tony King**  
Pensions Ombudsman  
Pension Protection Fund Ombudsman  
23/6/11

## 4.2 Statement of Accounting Officer's responsibilities

Under Section 145(8) of the Pensions Scheme Act 1993 and Section 212A of the Pensions Act 2004, the Secretary of State for Work and Pensions (with the consent of the Treasury) has directed the Pensions Ombudsman and Pensions Protection Fund Ombudsman to prepare for each financial year a statement of accounts in the form and on the basis set out in the Accounts Direction. The accounts are prepared on an accruals basis and must give a true and fair view of the state of affairs of the Pensions Ombudsman and Pension Protection Fund Ombudsman and of its income and expenditure, recognised gains and losses and cash flows for the financial year.

In preparing the accounts, the Accounting Officer is required to comply with the requirements of the Government Financial Reporting Manual and in particular to:

- observe the Accounts Direction issued by the Secretary of State for Work and Pensions, including the relevant accounting and disclosure requirements, and apply suitable accounting policies on a consistent basis;
- make judgements and estimates on a reasonable basis;
- state whether applicable accounting standards as set out in the Government Financial Reporting Manual have been followed, and disclose and explain any material departures in the accounts; and
- prepare the accounts on a going concern basis.

The Accounting Officer of the Department for Work and Pensions has designated the Pensions Ombudsman as Accounting Officer of the Pensions Ombudsman and Pension Protection Fund Ombudsman. The responsibilities of an Accounting Officer, including responsibility for the propriety and regularity of the public finances for which the Accounting Officer is answerable, for keeping proper records and for safeguarding the Pensions Ombudsman and Pension Protection Fund Ombudsman's assets, are set out in the Non-Departmental Public Bodies Accounting Officers Memorandum and in Managing Public Money issued by the Treasury.

## 4.3 Statement on Internal Control

### Scope of responsibility

As Accounting Officer I have responsibility for maintaining a sound system of internal control that supports the achievement of the policies, aims and objectives of the Pensions Ombudsman's and Pension Protection Fund Ombudsman's joint office, whilst safeguarding the public funds and departmental assets for which I am personally responsible, in accordance with the responsibilities assigned in Managing Public Money.

I am accountable to the DWP, under the terms of a Framework Document. The present Framework Document is as revised in 2009/10. In 2010/11 a number of new Governmental restrictions on expenditure have been in place that are not set out in the Framework Document. (The restrictions are described in more detail in section 2.3 Resources.) The DWP receives reports on performance, finance and risk at quarterly accountability review meetings.

### The purpose of the system of internal control

The system of control is designed to manage risk to a reasonable level rather than to eliminate all risk of failure to achieve policies, aims and objectives; it can therefore only provide reasonable not absolute assurance of effectiveness. The system of internal control is based on an ongoing process designed to identify and prioritise the risks to the achievements of our policies, aims and objectives to evaluate the likelihood of those risks being realised and the impact should they be realised, and to manage them efficiently, effectively and economically. The system of control has been in place for the year ended 31 March 2011 and up to the date of approval of the annual report and accounts and accords with Treasury guidance.

### Capacity to handle risk

The office's Senior Management Team has determined, in the light of the size of the organisation and our relatively straightforward functions, that risk should be managed proportionately and reasonably in order to ensure that value is added to the office's objectives. We seek to avoid risk, but we do not expect to eliminate all risk. We do expect to manage risk so as to be able to fulfil our functions effectively and efficiently so as to maintain public confidence.

Being a small organisation, those engaged in strategic risk management are, as a matter of course, greatly engaged in operational matters. We adapt to change by identifying and managing risks both informally and formally at operational level, recording and acting on any strategic implications of those risks.

### The risk and control framework

The Senior Management Team holds monthly operational meetings, for which terms of reference have been documented. In the year ended 31 March 2011 we introduced a formal process for documenting and managing operational risk management and the Senior Management Team now review and update the operational risk register at least every three months.

On a quarterly basis the office's Senior Management Team holds meetings as the "strategic management forum", one task of which is to review strategic risk and the risk register.

The Audit Committee also meets quarterly and reviews the strategic risk register in the light of any changes made by the Senior Management Team and auditors' observations. In my capacity as Accounting Officer I invariably attend Audit Committee meetings, as do representatives of DWP and internal and external auditors.

Within that structure, risk is controlled through the following steps:

- key risks to the achievement of strategic and or business delivery aims objectives and targets are identified and assigned to named individuals;
- causes and consequences of those risks are identified;
- there is a consistent scoring system for the assessment of risks on the basis of likelihood and impact;
- we determine appropriate management controls and activities to mitigate the risks identified, having regard to the amount of risk deemed to be tolerable and justifiable;
- risks are measured at both inherent and residual level to assess the reliance placed on mitigating controls and activities and the office's exposure should they fail;
- measures and indicators are identified to provide assurance that the mitigation actions are appropriate and effective; and
- regular monitoring and updating of risk information to ensure new and emerging risks are captured.

As at 31 March 2011 there were 16 strategic risks identified in the strategic risk register and 19 operational risks on the operational risk register. The highest profile risk at the end of the year related to the potential effect of funding restrictions on our ability to carry out our functions.

### Review of effectiveness

As Accounting Officer, I have responsibility for reviewing the effectiveness of the system of internal control. My review of the effectiveness of the system of internal control is informed by the work of the internal auditors and comments made by the external auditors in their management letter and other reports. I have been advised on the implications of the result of my review of the effectiveness of the system of internal control by the Audit Committee and a plan to address weaknesses and ensure continuous improvement of the system is in place.

At the end of the year our internal auditors in their assurance report gave an overall level of "reasonable".

Our present case management software is not capable of producing reliable management information. Various workarounds in the form of duplicated data in spreadsheets mitigate the risks of that (at the cost of extra work). A replacement for the software is currently being sought and should be in place during 2011/12 (as explained in section 2.5 Projects and Policies).

There were no control failures during the year.

There were no protected data related incidents reportable to the Information Commissioner's Office in 2010/11.



**Tony King**  
Pensions Ombudsman  
Pension Protection Fund Ombudsman  
23/6/11

## 4.4 The Certificate and Report of the Comptroller and Auditor General to the Houses Of Parliament

I certify that I have audited the financial statements of The Pensions Ombudsman and Pension Protection Fund Ombudsman for the year ended 31 March 2011 under the Pension Schemes Act 1993 and the Pensions Act 2004. These comprise the Statement of Comprehensive Net Expenditure, the Statement of Financial Position, the Statement of Cash Flows, the Statement of Changes in Taxpayers' Equity and the related notes. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Remuneration Report that is described in that report as having been audited.

### Respective responsibilities of the Board, Accounting Officer and auditor

As explained more fully in the Statement of Accounting Officer's Responsibilities, the Ombudsman as Accounting Officer is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view. My responsibility is to audit, certify and report on the financial statements in accordance with the Pension Schemes Act 1993 and the Pensions Act 2004. I conducted my audit in accordance with International Standards on Auditing (UK and Ireland). Those standards require me and my staff to comply with the Auditing Practices Board's Ethical Standards for Auditors.

### Scope of the Audit of the Financial Statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the Pensions Ombudsman and Pension Protection Fund Ombudsman's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the Pensions Ombudsman and Pension Protection Fund Ombudsman; and the overall presentation of the financial statements. In addition I read all the financial and non-financial information in the annual report to identify material inconsistencies with the audited financial statements. If I become aware of any apparent material misstatements or inconsistencies I consider the implications for my certificate.

In addition, I am required to obtain evidence sufficient to give reasonable assurance that the expenditure and income reported in the financial statements have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

### Opinion on Regularity

In my opinion, in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

### Opinion on financial statements

#### In my opinion:

- the financial statements give a true and fair view of the state of the Pensions Ombudsman's and Pension Protection Fund Ombudsman's affairs as at 31 March 2011 and of its total comprehensive expenditure for the year then ended; and
- the financial statements have been properly prepared in accordance with the Pension Schemes Act 1993 and Pensions Act 2004 and the Secretary of State for Work and Pensions' directions made thereunder.

## **Opinion on other matters**

### **In my opinion:**

- the part of the Remuneration Report to be audited has been properly prepared in accordance with the Secretary of State for Work and Pensions' Directions issued under by the Pension Scheme Act 1993 and Pensions Act 2004; and
- the information given in the Introduction, Management Commentary and Disclosures for the financial year for which the financial statements are prepared is consistent with the financial statements.

## **Matters on which I report by exception**

### **I have nothing to report in respect of the following matters which I report to you if, in my opinion:**

- adequate accounting records have not been kept; or
- the financial statements and the part of the Remuneration Report to be audited are not in agreement with the accounting records or returns; or
- I have not received all of the information and explanations I require for my audit; or
- the Statement on Internal Control does not reflect compliance with HM Treasury's guidance.

## **Report**

I have no observations to make on these financial statements.

### **Amyas C E Morse**

Comptroller and Auditor General  
National Audit Office  
157-197 Buckingham Palace Road  
Victoria  
London  
SW1W 9SP

29/6/2011

## 4.5 Accounts

The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

### STATEMENT OF COMPREHENSIVE NET EXPENDITURE

Year ended 31 March 2011

	Note	2010/11 £	2009/10 £
<b>EXPENDITURE</b>			
Staff costs	3	(1,853,599)	(1,940,038)
Depreciation	5	(7,065)	(11,276)
Other expenditure	4	(817,689)	(916,353)
<b>OPERATING DEFICIT</b>		<u>(2,678,353)</u>	<u>(2,867,667)</u>
<b>TOTAL COMPREHENSIVE EXPENDITURE</b>		<u>(2,678,353)</u>	<u>(2,867,667)</u>

All activities were continuing throughout the year.

The notes on pages 55 to 64 form part of these statutory accounts.

## The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

**STATEMENT OF FINANCIAL POSITION**

31 March 2011

	Note	31 March 2011 £	31 March 2010 £
<b>NON-CURRENT ASSETS</b>			
Property, plant and equipment	5	<u>10,894</u>	<u>11,276</u>
<b>TOTAL NON-CURRENT ASSETS</b>		<b>10,894</b>	<b>11,276</b>
<b>CURRENT ASSETS</b>			
Trade and other receivables	6	<u>34,989</u>	<u>35,109</u>
Cash and cash equivalents	7	<u>101,028</u>	<u>28,745</u>
<b>TOTAL CURRENT ASSETS</b>		<b>136,017</b>	<b>63,854</b>
<b>TOTAL ASSETS</b>		<b>146,911</b>	<b>75,130</b>
<b>CURRENT LIABILITIES</b>			
Trade and other payables	8	<u>70,998</u>	<u>130,864</u>
<b>TOTAL CURRENT LIABILITIES</b>		<b>70,998</b>	<b>130,864</b>
<b>ASSETS LESS LIABILITIES</b>		<b>75,913</b>	<b>(55,734)</b>
<b>TAXPAYER'S EQUITY</b>			
General reserve		<u>75,913</u>	<u>(55,734)</u>

The financial statements on pages 43 to 54 were authorised for issue on 23/6/2011 and signed by



**Tony King**  
Pensions Ombudsman  
Pensions Protection Fund Ombudsman

23/6/2011

The notes on pages 55 to 64 form part of these statutory accounts.

## The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

**STATEMENT OF CASH FLOWS**

Year ended 31 March 2011

	Note	2010/11 £	2009/10 £
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
Operating deficit		(2,678,353)	(2,867,667)
Depreciation	5	7,065	11,276
Revaluation of fixed assets	5	451	2,841
Profit on disposal of fixed assets		(5,271)	–
Decrease/(increase) in receivables	6	120	(3,673)
Decrease in payables	8	(59,865)	(205,373)
Net cash outflow from operating activities		(2,735,853)	(3,062,596)
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>			
Purchase of IT equipment	5	(1,864)	–
Net cash outflow from investing activities		(1,864)	–
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>			
Grants from parent department		2,810,000	2,930,000
<b>NET FINANCING</b>		<b>2,810,000</b>	<b>2,930,000</b>
Increase/(Decrease) in cash in the year		<u>72,283</u>	<u>(132,596)</u>
Cash and cash equivalents at 1 April 2010		<u>28,745</u>	<u>161,341</u>
Cash and cash equivalents at 31 March 2011		<u><b>101,028</b></u>	<u><b>28,745</b></u>

The notes on pages 55 to 64 form part of these statutory accounts.

## The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

**STATEMENT OF CHANGES IN TAXPAYERS' EQUITY**

Year ended 31 March 2011

	Note	General Reserve £
<b>Balance at 1 April 2009</b>		<u>(118,067)</u>
<b>Changes in Taxpayers' Equity</b>		
Comprehensive expenditure for the year		<u>(2,867,667)</u>
Grant-in-aid to cover ongoing operations		<u>2,930,000</u>
<b>Balance at 31 March 2010</b>		<u>(55,734)</u>
<b>Changes in Taxpayers' Equity</b>		
Comprehensive expenditure for the year		<u>(2,678,353)</u>
Grant-in-aid to cover ongoing operations		<u>2,810,000</u>
<b>Balance at 31 March 2011</b>		<u><u>75,913</u></u>

The notes on pages 55 to 64 form part of these statutory accounts.

## The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

# NOTES TO THE ACCOUNTS

Year ended 31 March 2011

## 1. ACCOUNTING POLICIES

### Basis of accounting

These financial statements have been prepared in accordance with the 2010-11 *Government Financial Reporting Manual (FReM)* issued by HM Treasury. The accounting policies contained in the FReM apply International Financial Reporting Standards (IFRS) as adapted or interpreted for the public sector context. Where the FReM permits a choice of accounting policy, the accounting policy which is judged to be most appropriate to the particular circumstances of the Pensions Ombudsman for the purpose of giving a true and fair view has been selected. The particular policies adopted by the Pensions Ombudsman are described below. They have been applied consistently in dealing with items that are considered material to the accounts.

### International Financial Reporting Standards Amendments and Interpretations effective in 2011-12

No Amendments or Interpretations that have been issued but are not yet effective, and that are available for early adoption, have been applied by the Pensions Ombudsman in these financial statements. There are no Amendments or Interpretations issued, but not yet effective, which are expected to have a material effect on the financial statements in the future.

### Accounting convention

These accounts have been prepared under the historical cost convention modified to account for the revaluation of property, plant and equipment.

### Going concern

Future financing of the Ombudsman will be met by grant-in aid from the Department for Work and Pensions, as the Ombudsman's sponsoring dept. The amount for 2011/12 has already been agreed and there is no reason to suppose that this will not continue. It has accordingly been considered appropriate to adopt the going concern basis for the preparation of these financial statements.

### Government grants & grant-in-aid

Grant-in-aid and grant received used to finance activities which support the statutory and other objectives of the entity are treated as financing, credited to the General Reserve, because they are regarded as contributions from a controlling party.

### Cash and cash equivalents

Cash and cash equivalents comprise cash at bank and in hand and short term deposits. Short term deposits are defined as deposits with an initial maturity of three months or less.

### Other income and expenditure

Other income and expenditure is recognised on an accruals basis. Where income received relates to the period of time covering more than one accounting period that part extending beyond the current accounting period is treated as deferred income.

### VAT

The Ombudsman was not registered for VAT during the financial year 2010/11.

## The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

# NOTES TO THE ACCOUNTS

Year ended 31 March 2011

### 1. ACCOUNTING POLICIES (continued)

#### Property, plant and equipment

Property, plant and equipment are valued at current replacement cost which is calculated by applying appropriate Office for National Statistics indices (ONS) to the historical cost of each asset. Any surplus on revaluation of these is credited to the General Reserve. Any impairment in the value of a non-current asset on revaluation is charged to the Statement of Comprehensive Net Expenditure when it occurs. The Ombudsman is required to remit the proceeds of disposal of non-current assets to the Secretary of State.

Non-current assets are recognised where expenditure is in excess of £500.

#### Depreciation

Depreciation is calculated so as to write off the carrying value of an asset, less its estimated residual value, over the useful economic life of that asset as follows:

IT Equipment – 5 years straight line

Assets are not depreciated until they are commissioned or brought into use.

During 2010-11 the Ombudsman conducted a review of its depreciation rates to ensure assets were charged over the expected useful economic life of the assets, this resulted in IT Equipment being charged over a revised 5 years (4 years 2009-10). The impact of this change in accounting estimate is a £5,233 reduction in charge for the year to the Statement of Comprehensive Net Expenditure.

#### Leases

Leases are classified as finance leases whenever the terms of the lease transfer substantially all the risks and rewards of ownership to the lessee. All other leases are classified as operating leases. Rentals payable under operating leases are charged to the Statement of Comprehensive Net Expenditure on a straight-line basis over the term of the relevant lease.

#### Pension arrangements

Past and present employees are covered by the provisions of the Principal Civil Service Pension Scheme (PCSPS) which is a defined benefit scheme and is unfunded and non-contributory, except in respect of dependants' benefits. The Ombudsman recognises the expected cost of providing pensions on a systematic and rational basis over the period during which it benefits from employers' service by payment to the PCSPS of amounts calculated on an accruing basis. Liability for the payment of future benefits is a charge on the PCSPS.

#### Cost Of Capital Charge

In the previous financial statements, as required by the FReM, a charge reflecting the cost of capital utilised by the Ombudsman was included in the Net Expenditure Account. The FReM has now withdrawn this requirement with effect from 1 April 2010, and the charge has been removed from the Statement of Comprehensive Net expenditure in the 2010/11 financial statements, and the 2009/10 comparative. The total comprehensive expenditure for 2009/10 is not affected by this change as the charge was reversed on the face of the Net Expenditure Account.

**The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)****NOTES TO THE ACCOUNTS**

Year ended 31 March 2011

**1. ACCOUNTING POLICIES (continued)****Financial instruments**

The Pensions Ombudsman determines the classification of financial assets and liabilities at initial recognition. They are derecognised when the right to receive cash flows has expired or when it transfers the financial asset and the transfer qualifies for derecognition.

Loans and receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market and which are not classified as available for sale. Loans and receivables are initially recognised at fair value and subsequently held at amortised cost. The fair value of trade and other receivables is usually the original invoiced amount.

Cash at bank and in hand comprises cash in hand and current balances with banks and similar institutions, which are readily convertible to known amounts of cash and which are subject to insignificant changes in value.

The Pensions Ombudsman assesses at each Statement of Financial Position date whether there is objective evidence that financial assets are impaired as a result of one or more loss events that occurred after the initial recognition of the asset and prior to the Statement of Financial Position date and whether such events have had an impact on the estimated future cash flows of the financial instrument and can be reliably estimated.

Interest determined, impairment losses and translation differences on monetary items are recognised in the Statement of Comprehensive Net Expenditure.

**Critical accounting judgements and key sources of estimation uncertainty**

The preparation of financial statements in conformity with IFRS requires management to make judgements, estimates and assumptions that affect the application of policies and reported amounts in the financial statements.

We consider there to be no areas of critical judgement used in applying the accounting policies.

There are no significant sources of estimation uncertainty.

## The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

**NOTES TO THE ACCOUNTS**

Year ended 31 March 2011

**2. PENSION PROTECTION FUND OMBUDSMAN (PPFO) ELEMENT OF COSTS**

PPFO activity continues to be of relatively limited scale. Previously costs were attributed based purely on a comparison between the number of PPFO cases and Pensions Ombudsman (PO) cases dealt with. During 2008/09 we introduced an informal time recording arrangement to support the split of costs. During the year 42 PPFO cases (2009/10: 19 cases) and 847 PO cases (2009/10: 889 cases) were closed. Approximately 5% (2009/10: 2%) of expenditure and total net liabilities (corresponding to £131,000 for the year ended 31 March 2011) is deemed attributable to the PPFO (2009/10: £57,000).

No further analysis of costs is made between PPFO and PO cases and these costs are not separately reported to management. Therefore the Ombudsman is considered to only have one operating segment and as such there is no additional segmental analysis requiring disclosure in the accounts.

**3. STAFF COSTS**

	Year ended 31 March 2011		
	Total	Permanently employed staff	Others
	£	£	£
Wages and salaries	1,458,485	1,456,161	2,324
Employers' national insurance contributions	119,738	119,738	–
Staff pension contributions	275,376	275,376	–
	<u>1,853,599</u>	<u>1,851,275</u>	<u>2,324</u>

	Year ended 31 March 2010		
	Total	Permanently employed staff	Others
	£	£	£
Wages and salaries	1,518,156	1,515,494	2,662
Employers' national insurance contributions	124,710	124,710	–
Staff pension contributions	297,172	297,172	–
	<u>1,940,038</u>	<u>1,937,376</u>	<u>2,662</u>

The average number of staff employed during the period was 38 (2009/10: 38). The average number of other staff was 1 (2009/10: 1).

## The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

# NOTES TO THE ACCOUNTS

Year ended 31 March 2011

### 3. STAFF COSTS (continued)

#### Principal Civil Service Pension Schemes

From 1 October 2002, civil servants and others approved by the Cabinet Office, including certain designated staff of the Ombudsman, may be in one of three statutory based 'final salary' unfunded multi-employer defined benefit schemes (Classic, Premium, and Classic Plus). The schemes are unfunded, with the cost of benefits met by monies voted by Parliament each year. Entrants after 1 October 2002 may choose to join a 'money purchase' stakeholder arrangement with a significant employer contribution (partnership pension account). Pensions payable under Classic, Premium, and Classic Plus are increased annually in line with changes in the Consumer Price Index. Employee contributions are set at the rate of 1.5% of pensionable earnings for Classic and 3.5% for Premium and Classic Plus.

Benefits in Classic accrue at the rate of 1/80th of pensionable salary for each year of service. In addition, a lump sum equivalent to three years' pension is payable on retirement. For Premium benefits accrue at the rate of 1/60th of final pensionable earnings for each year of service. Unlike Classic, there is no automatic lump sum, (but members may give up (commute) some of their pension to provide a lump sum). Classic Plus is essentially a variation of Premium, but with benefits in respect of service before 1 October 2002 calculated broadly as per Classic.

The partnership pension account is a stakeholder arrangement. The employer makes a basic contribution of between 3% and 12.5% (depending on the age of the member) into a stakeholder pension product chosen by the employee. The employee does not have to contribute but where they do make contributions, the employer will match these up to a limit of 3% of pensionable salary (in addition to the employer's basic contribution). Employers also contribute a further 0.8% of pensionable salary to cover the cost of centrally provided risk benefit cover (death in service and ill-health retirement).

These schemes closed to new members in July 2007. Existing members retained membership and existing benefits. A new Scheme called Nuvos was established for new members from that date. Nuvos allows staff to earn 2.3% of their pensionable earnings towards their pension each year. Again there is no automatic lump sum but like Premium, members may opt to give up part of their pension for a lump sum which will usually be tax-free.

Further details about the Civil Service Pension arrangements can be found at the website [www.civilservice-pensions.gov.uk](http://www.civilservice-pensions.gov.uk)

During 2010/11 employer's contributions of £275,376 (2009/10 £297,172) were payable to the Scheme.

## The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

**NOTES TO THE ACCOUNTS**

Year ended 31 March 2011

**4. OTHER EXPENDITURE**

	Year ended 31 March 2011 £	Year ended 31 March 2010 £
Education and exams	583	3,011
Rent and rates	322,504	312,441
Insurance	3,400	3,312
Business Continuity	14,632	15,222
Travel and subsistence	3,035	6,355
Telephone	7,701	10,084
Hire of equipment	9,543	13,741
Printing, stationery and postage	35,638	40,289
Staff training	6,234	14,248
Staff welfare	–	391
Sundry expenses	7,220	4,524
Donations	–	500
Computer expenses	263,750	253,607
Subscriptions	64,098	58,150
Staff Recruitment	–	17,655
Legal and professional fees	40,978	110,554
Accountancy fees	21,886	23,567
Auditor's remuneration	20,500	25,000
Non-cash items:		
Revaluation of fixed assets	451	2,841
Profit on disposal of fixed assets	(5,271)	–
Bank charges	807	861
	<u>817,689</u>	<u>916,353</u>

The auditors did not receive any remuneration for non audit work (2009/10 £Nil).

## The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

**NOTES TO THE ACCOUNTS**

Year ended 31 March 2011

**5. PROPERTY, PLANT AND EQUIPMENT**

	IT Equipment £
<b>COST/VALUATION</b>	
At 1 April 2010	155,014
Additions	7,328
Disposals	(11,543)
Revaluation	(6,201)
<b>At 31 March 2011</b>	<u><u>144,598</u></u>
<b>DEPRECIATION</b>	
At 1 April 2010	143,738
Revaluation	(5,750)
Elimination on disposals	(11,349)
Charge for the year	7,065
<b>At 31 March 2011</b>	<u><u>133,704</u></u>
<b>NET BOOK VALUE</b>	
<b>At 31 March 2011</b>	<u><u>10,894</u></u>
At 31 March 2010	<u><u>11,276</u></u>
<b>COST/VALUATION</b>	
At 1 April 2009	178,351
Revaluation	(23,337)
<b>At 31 March 2010</b>	<u><u>155,014</u></u>
<b>DEPRECIATION</b>	
At 1 April 2009	152,958
Revaluation	(20,496)
Charge for the year	11,276
<b>At 31 March 2010</b>	<u><u>143,738</u></u>
<b>NET BOOK VALUE</b>	
<b>At 31 March 2010</b>	<u><u>11,276</u></u>
At 31 March 2009	<u><u>25,393</u></u>

## The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

**NOTES TO THE ACCOUNTS**

Year ended 31 March 2011

**6. TRADE AND OTHER RECEIVABLES**

	31 March 2011 £	31 March 2010 £
Other receivables	10,377	11,853
Prepayments	24,612	23,256
	<u>34,989</u>	<u>35,109</u>

There are no intra government balances.

**7. CASH AND CASH EQUIVALENTS**

	31 March 2011 £	31 March 2010 £
Balance at 1 April 2010	28,745	161,341
Net change in cash and cash equivalent balances	72,283	(132,596)
Balance at 31 March 2011	<u>101,028</u>	<u>28,745</u>

The following balances at 31 March 2011 were held at:

Commercial banks and cash in hand £101,028 (31 March 2010: £28,745)

**8. TRADE AND OTHER PAYABLES**

	31 March 2011 £	31 March 2010 £
Accruals	<u>70,998</u>	<u>130,864</u>

**PAYABLES: Balances with other Government bodies.**

	31 March 2011 £	31 March 2010 £
HM Revenue and Customs	–	17,331
Department for Work and Pensions		
Internal Audit Services	20,250	24,500
Prime Facilities Service charge	1,456	–
Accruals	<u>21,706</u>	<u>41,831</u>

## The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

**NOTES TO THE ACCOUNTS**

Year ended 31 March 2011

**9. COMMITMENTS UNDER OPERATING LEASES**

The total future minimum lease payments under operating leases are given below, analysed according to the period in which payments fall due:

**Buildings**

	<b>31 March 2011</b>	31 March 2010
	£	£
Obligations under operating leases comprise:–		
Not later than one year	<b>282,218</b>	288,774
Later than one year and not later than five years	<b>352,773</b>	649,741
Later than five years	–	–
	<u><b>634,991</b></u>	<u>938,515</u>

**Other**

	<b>31 March 2011</b>	31 March 2010
	£	£
Obligations under operating leases comprise:–		
Not later than one year	<b>58,814</b>	249,012
Later than one year and not later than five years	<b>24,430</b>	129,292
Later than five years	–	–
	<u><b>83,244</b></u>	<u>378,304</u>

**10. RELATED PARTY TRANSACTIONS**

The Department for Work and Pensions are our Sponsor Department and grant-in-aid is received from them, the amounts are disclosed in the Statement of Changes in Taxpayers' Equity. Service Charges in respect of the accommodation were reimbursed to the Department for Work and Pensions in the sum of £15,956 during the year (2009/10: £23,667). During the year the office accommodation was rented from HM Revenue and Customs at an annual cost of £303,674 (£288,774 in 2009/10). At 31 March 2011 £Nil and £1,456 were due to HM Revenue and Customs and the Department for Work and Pensions respectively (2009/10: £17,331 and £Nil). The Ombudsman's Internal Audit Services are provided by the Department for Work and Pensions and £20,250 was due for that service at 31 March 2011 (£24,500 in 2009/10).

**11. CAPITAL COMMITMENTS**

Amounts contracted for but not provided in the accounts amounts to £nil (2009/10: £nil).

## The Pensions Ombudsman (incorporating the Pension Protection Fund Ombudsman)

### NOTES TO THE ACCOUNTS

Year ended 31 March 2011

#### 12. FINANCIAL INSTRUMENTS

It is, and has been, the Pension's Ombudsman policy that no trading in financial instruments is undertaken.

The Ombudsman does not face the degree of exposure to financial risk that commercial businesses do. In addition financial assets and liabilities generated by day-to-day operational activities are not held in order to change the risks facing the Pensions Ombudsman in undertaking its activities. The Ombudsman relies upon the Department for Work and Pensions for its cash requirements, having no power itself to borrow or invest surplus funds and the Ombudsman's main financial assets and liabilities have either a nil or a fixed rate of interest (currently 3.5%). The short-term liquidity and interest rate risks are therefore slight. The Ombudsman's exposure to foreign currency risk is not significant.

The fair values of the Ombudsman's financial assets and liabilities for both the current and comparative year do not differ materially from their carrying values.

#### Financial Assets by category

	2011 Loans and receivables £	2010 Loans and receivables £
Cash and cash equivalents	101,028	28,745
Other receivables	10,377	11,853
	<u>111,405</u>	<u>40,598</u>

#### Financial liabilities by category

	2011 Measured at amortised cost £	2010 Measured at amortised cost £
Accruals	<u>70,998</u>	<u>130,864</u>

#### Liquidity risk

The Ombudsman's net revenue resource requirements are largely funded by grant-in-aid from its Sponsor Department. The capital expenditure is also financed through grant-in-aid. The Ombudsman is consequently not exposed to significant liquidity risks.

#### Interest rate risk

The Ombudsman is not exposed to any interest rate risk.

#### Foreign currency risk

There is no risk as the Ombudsman does not deal in foreign currency.

## 4.6 Accounts direction

The Secretary of State for the Department for Work and Pensions has issued the following accounts direction.

1. This direction applies to the Pensions Ombudsman/ Pension Protection Fund Ombudsman.
2. The Pensions Ombudsman/Pensions Protection Fund Ombudsman shall prepare accounts for the financial year ended 31 March 2009 and each subsequent financial year in compliance with:
  - the accounting principles and disclosure requirements of the current edition of the Government Financial reporting Manual issued by HM treasury (“the FReM”) which is in force for the financial year for which the accounts are being prepared;
  - other guidance which HM Treasury may issue from time to time in respect of accounts which are required to give a true and fair view;
  - the Framework Document (containing the Management Statement and Financial Memorandum of Understanding) agreed between the Pensions Ombudsman/Pension Protection Fund Ombudsman and the Department for Work and Pensions; and
  - any other specific disclosure or other requirements required by the Secretary of State.
3. The accounts shall be prepared so as to:
  - a) give a true and fair view of the state of affairs as of 31 March 2009 and subsequent financial year ends, and of the income and expenditure, total recognised gains and losses and cash flows for each year then ended; and
  - b) provide disclosure of any material expenditure or income that has not been applied to the purposes intended by Parliament or material transactions that have not conformed to the authorities which govern them.
4. Compliance with the requirements of the FReM will, in all but exceptional circumstances, be necessary for the accounts to give a true and fair view. If, in these exceptional circumstances, compliance with the requirements of the FReM is inconsistent with the requirement to give a true and fair view, the requirements of the FReM should be departed from only to the extent necessary to give a true and fair view. In such cases, informed and unbiased judgement should be used to devise an appropriate alternative treatment which should be consistent with both the economic characteristics of the circumstances concerned and the spirit of the FReM. Any material departure from the FReM should be discussed with HM Treasury.





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