

**Memorandum of Understanding between
The Pensions Regulator
and
The Board of the Pension Protection Fund**

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Reviewed: **21 April 2010**

Contents	Page
Introduction	3
Purpose	3
Responsibilities of each body	4
Principles of partnership between TPR and PPF	5
Areas of general co-operation	5
Board meetings	5
Review of activities	5
Policy development	5
Communications	6
Staff interchange	6
Data collection and sharing, and information gathering	6
Cases involving clearance applications	8
Review, reporting and dispute resolution	8
Review of memorandum	9

Introduction

1. The Pensions Regulator and the Pension Protection Fund were both established by the Pensions Act 2004. This Memorandum of Understanding (MoU) document sets out the principles and governance structures that support The Pensions Regulator (TPR) and the Board of the Pension Protection Fund (PPF) in working together to deliver their statutory obligations, and to achieve an effective and efficient working relationship. This document is supplemental to existing TPR and PPF internal governance arrangements and the Tripartite Memorandum of Understanding between the Department for Work and Pensions (DWP), TPR and the PPF. This document is underpinned by a Partnering agreement (PAR) covering the overarching principles for specific areas where TPR and PPF provide a service to each other.

Purpose

2. This MoU sets out co-operation and co-ordination arrangements between TPR and the PPF in carrying out their respective and joint responsibilities to regulate and protect work-based pension schemes. It describes:
 - the role of both public bodies;
 - how they will work together towards the common objective of pension security; and
 - sets out in general terms the areas of business where co-operation, communication and consultation are required.
3. These arrangements are intended to enable TPR and the PPF to:
 - (i) Ensure TPR and the PPF meet their individual and joint statutory obligations.
 - (ii) Manage their individual and joint exposure to operational risk.
 - (iii) Undertake their full responsibilities, as set out in this MoU and accompanying PAR.
 - (iv) Meet their individual operational objectives and maintain strategic alignment with each other.
 - (v) Regularly monitor and review individual and joint operational and service delivery performance.
 - (vi) Ensure timely and accurate exchange of management information.
 - (vii) Ensure potential problems, complaints and issues are identified early and resolved promptly.
 - (viii) Provide a route for escalation to Executive director and if necessary CEO level or to the Chair of the respective parties.
 - (ix) Review compliance with the MoU and PAR and update as necessary in light of any organisational changes and operational experience.
 - (x) Ensure change requirements are anticipated and managed efficiently and effectively via a change control procedure.

Responsibilities of each body

The Pensions Regulator

4. TPR has responsibility for all 'work-based' pension schemes. In particular this includes operational responsibility for:
 - regulating occupational pension schemes, including their funding, governance and administration
 - regulating, in respect of stakeholder pensions, registration, designation, and compliance with the charge cap, as well as the other duties imposed on employers, trustees and managers in relation to all work-based pensions (eg timely payment of contributions)
 - regulating certain aspects, including administration, of work-based personal pension schemes
 - providing information, education and assistance in relation to work-based pension schemes to those involved in the administration of work-based pensions, those who advise trustees and managers on the operation of work based pensions; and employers and those who advise employers
 - regulating the provision of information and advice by employers for employees about pensions and saving for retirement
5. TPR is also responsible for collection of the General and Administration levies on behalf of the Secretary of State for Work and Pensions.
6. One of TPR's statutory objectives is to reduce the risk of situations arising which may lead to calls on the PPF. Consistent with this objective, and with its medium term strategy, TPR will work to:
 - strengthen the funding of defined benefit schemes;
 - improve the governance of work-based pension schemes;
 - be consistent in its operation of the clearance procedure; and
 - use relevant powers to make good the scheme funding shortfalls where an employer may be seeking to avoid its pension scheme liabilities.

The Pension Protection Fund

7. The role of the PPF is to pay compensation to members of eligible pension schemes, where the employer in relation to the scheme suffers a qualifying insolvency event and the scheme has insufficient assets to secure the level of compensation that would be paid by the PPF.
8. In operational terms this means:
 - monitoring the default risk in the eligible universe
 - assessing eligibility of individual schemes for PPF entry
 - taking the lead in recovering pensions debt in insolvencies
 - managing schemes through assessment
 - taking on schemes and delivering compensation to members
 - setting, calculating and collecting pension protection levies
 - prudently managing assets and liabilities, taking account of insurance, investment and longevity risks

Principles of partnership between TPR and PPF

9. This MoU, and the underpinning PAR, are based on the following principles:
- the exchange of information relevant to each body's responsibilities
 - each body will consider service provision from the other, taking into account fair value and appropriate procurement requirements
 - clear, quantifiable specification of levels of service (frequency, timeliness, accuracy tolerances, compliance against specification)
 - clear governance arrangements covering both the MoU and PAR
 - PPF, TPR or joint accountability for each issue covered in the MoU and PAR
 - commercial underpin (eg charges for data or services) wherever appropriate

Areas of general co-operation

10. Each body is committed to supporting the measures for closer joint working agreed with DWP following the 2007 Thornton report – 'A review of pensions institutions'. Specific areas of co-operation are set out in this section.

Board meetings

11. The Chairs of TPR and PPF will attend each other's Board meetings to embed closer working between the two bodies. When either Chair is unavailable the Chief executive will attend on their behalf. In addition, joint strategy events will be held with the full boards of TPR and the PPF at least annually.

Review of activities

12. Each body will regularly review their individual and joint activities to identify high risk schemes and take appropriate action as a result.

Policy development

13. Each body will make the other aware of significant changes and developments that could have an impact on the policies or procedures of the other body, and will consult each other in advance of Board decisions relating to:
- changes in the strategy or policy of either body
 - changes to the operations of either body
 - changes in the organisational structure of either body
14. Each body will provide the other with advance notice of such changes and a reasonable timeframe in which to consider the implications and provide comment before such change takes effect. The mechanism for sharing such information will be via the monthly meetings between the Chief Executives of each body.

Communications

15. Each body will make the other aware of communications on matters of common concern that could have an impact on the communications plans of the other body. Examples are:
 - consultation documents, guidance and statements
 - press releases and other public announcements
 - seminars, workshops or other events involving external stakeholders
16. Where a communication of this sort is being planned by either body, each body will, where appropriate, give the other early awareness of it and a reasonable time in which to consider the implications of this and provide comments. The mechanism for sharing such information will be the monthly meetings between the Heads of communications of each body.
17. Where TPR and PPF agree to produce joint communications, both bodies will co-operate on the exchange and analysis of data for the purposes of producing the communication, and will adhere to the project plan jointly agreed for each item.

Staff interchange

18. TPR and PPF will co-operate with each other in facilitating staff exchanges and secondments to the other. Staff interchanges will be made in each direction on a regular basis and the effectiveness of these arrangements reviewed annually.

Data collection and sharing, and information gathering

19. Both organisations are committed to meeting their statutory obligations regarding the collection and sharing of data and in particular under the Data Protection Act 1998 and sections 82 and 197 of the Pensions Act 2004.
20. TPR and PPF will also seek to ensure that they minimise the burden on external stakeholders, and are committed to ensuring that they meet the principles of Good Regulation as set out by the Better Regulation Executive, as follows:
 - (i) Proportionality – this involves ensuring that only information that is necessary for either organisation to carry out its statutory functions is sought.
 - (ii) Accountability – both organisations will be accountable and able to justify their decisions, maintaining strict policies and protocols that are made in relation to data collection, information gathering and sharing information.
 - (iii) Consistency – TPR and the PPF are committed to ensuring that there is a joined up approach in the collection of data, information gathering and the sharing of information so that these functions are carried out fairly and consistently.
 - (iv) Transparency – the objectives that the organisations have in gathering the information will continue to be clearly defined and effectively communicated to external stakeholders.
 - (v) Targeting – TPR is a risk based organisation and as such will focus on information directly relevant to those identified risks when it collects data and passes on information to the PPF. Consequently, changes to risks may lead to changes in the information gathered.

21. Where the two organisations have similar data requirements, external stakeholders will not receive the same request twice. TPR and the PPF will ensure that wherever possible they maximise the ability to share information by developing systems that are compatible.
22. TPR and PPF will share data, including non-scheme return data, for the purposes of analysis, research and strategy development.
23. On occasion third parties will be contracted by TPR or PPF to undertake an analysis of data collected by TPR. In such instances the use of data by the third party will be prescribed in the contract and any other uses will be strictly prohibited.
24. Sections 85 and 199 of the Pensions Act 2004 give TPR powers to obtain information. The Act provides that all information obtained by TPR in the course of its functions relating to the business or the affairs of any person is classed as restricted information, and sets out to whom and for what purpose that information may be disclosed. The exchange of information, including case specific information, from TPR to the PPF is permitted by section 85 of the Pensions Act 2004. The Act also provides that all information obtained by the PPF in the course of its functions relating to the business or other affairs of any person, except form information that has already been made public or is in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it, is defined as restricted information. It sets out to whom and for what purposes that information may be disclosed. The exchange of information between the PPF and TPR is specifically permitted under section 199 of the Act.

Cases involving clearance applications

25. TPR's voluntary clearance procedure is available to anyone who wishes to confirm that they will not be subject to TPR issuing a Contribution Notice or a Financial Support Direction in respect of a proposed transaction. TPR will involve PPF in cases where it is likely that the scheme's sponsoring employer will become insolvent or the scheme will go into PPF assessment.
26. On receipt of a signed application for clearance, TPR will consider whether to issue a clearance statement in accordance with statutory process. In the event that TPR grants clearance, and the PPF has been involved in discussions, the PPF will be considered to be a directly affected party and served with a Warning Notice that TPR is considering issuing a clearance statement based on the facts outlined in the application. All directly affected parties, including the PPF will have the opportunity to provide representations on the Warning Notice and any representations received before the stated deadline will be considered by TPR prior to issuing any determination to grant clearance. The time allowed for representations will usually be specified in the Warning Notice.
27. If there is any material change to the information provided in the application or circumstances of the transaction, TPR will alert the PPF as to the nature of that change as soon as possible. Similarly, the PPF will alert TPR to changes it has identified.

Review, reporting and dispute resolution

28. Both parties shall attempt to negotiate a settlement to any dispute between them arising out of or in connection with this MoU and associated PAR in accordance with the following procedure:
 - (i) Executive directors of each organisation shall, within ten working days of a written request from either party to the other addressed to the Chief executive, meet in an effort to resolve the dispute without recourse to other proceedings.
 - (ii) If any dispute remains unresolved following step (i), then the dispute shall be referred by either party to the organisations' respective Chief executives for resolution.
 - (iii) In the event that any dispute cannot be resolved by the Chief executives within 20 days, the dispute will be determined by referral to the Chair of the respective parties.
 - (iv) The operation of this MoU and PAR will continue until the dispute is resolved and any relevant amendments to the MoU or PAR agreed by both parties.

Review of Memorandum

29. This Memorandum will be reviewed on agreement by both parties. In addition, a review may take place where there are any significant changes to policy, legislation, or where there has been a change in the office of the Chair or Chief executive of either public body.

SIGNED for and on behalf of The Pensions Regulator	SIGNED for and on behalf of the Board of the Pension Protection Fund
Signature.....	Signature.....
Name: Tony Hobman Chief executive	Name: Alan Rubenstein Chief executive
Date:	Date:

The Pensions
Regulator

Pension
Protection
Fund