Work and Pensions Committee

Oral evidence: Appointment of the Pensions Ombudsman and Pension Protection Fund Ombudsman, HC 963

Wednesday 11 February 2015

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Written evidence from witnesses:

- Letter to the Committee Chair from the Minister for Pensions, 15 October 2014

Watch the meeting

Members present: Dame Anne Begg (Chair), Graham Evans, Sheila Gilmore, Kwasi Kwarteng, Anne Marie Morris, Nigel Mills, Mr Michael Thornton.

Questions 1 - 46

Witnesses: **Anthony Arter**, Department for Work and Pensions' preferred candidate for the post of Pensions Ombudsman and Pensions Protection Fund Ombudsman, gave evidence.

Q1 Chair: Thanks very much for coming along this morning. This is a pre-appointment hearing for the Pensions Ombudsman. Until quite recently we did not realise that we had the honour of holding a pre-appointment hearing for your particular post, so welcome this morning. Thanks for coming along and putting yourself through this; it is part of the process.

Can I just begin by asking why you applied for both the Deputy Ombudsman's job as well as the Ombudsman's job? You obviously are very keen to get some kind of Pensions Ombudsman's job, but why did you apply for both?

Anthony Arter: I was approached. I was thinking about what I wanted to do for the next year or so and beyond and, as you will have seen, I have been involved with community projects—I was a member of the London Leadership panel of BITC—and I very much wanted to do something perhaps of a charitable nature, and then I was approached in respect of this appointment.

Yes, I was very excited by the prospect. I looked at it and thought, "This is something where I could use my expertise and experience to provide support for members and also to continue what the present Ombudsman has achieved in terms of timing and so forth." I was very keen to do that, and I thought, "Do I want to do it on a part-time basis, and then give myself more time to participate in other ventures?" I could not make up my mind and decided I would leave it to the appointments panel. Also, I did not know who the other applicants were and whether there would be someone more suited than I to be the Pensions Ombudsman. I did not know what their experience was or otherwise, and I just thought, “I would still like to be a part of it, either as the Pensions Ombudsman or as the Deputy.” However, as the process continued, I was getting more and more excited by the prospect of leading it and making sure it continued in the right direction.

Q2 Chair: How did you find the appointment process? Was it relatively easy? Was it quite harrowing?

Anthony Arter: I felt it was thorough, from my personal perspective. I thought the panel was balanced, with the independent member from the TUC, the independent assessor, the chair and the Department representative. I thought that was a fair panel. I was guided throughout the process and everything was explained to me: exactly what would happen and how long the process would take, etc. From what I could see, as just one candidate, I thought it was a very fair process. Two candidates were then put forward to the Minister, and so I had a further interview with the Minister.

Q3 Chair: Which was the most difficult: the one with the panel or the one with the Minister?

Anthony Arter: They were challenging in different ways, I suppose. The panel explored all areas, and I thought the way they went into my experience, the role—everything really—was very good in that interview. The Minister was much more focused on what I would do in the future. Although that was covered in the first interview, with the Minister it was much more really getting an understanding of how I would deal with the issues going forward.

Q4 Chair: I suspect we may have some questions along those lines. Through that whole process, what was the most challenging question that you were asked?

Anthony Arter: Gosh.

Chair: You are going to say this one.

Anthony Arter: I don’t know if I can say this, but probably whether it is right that a white male should be put forward as Pensions Ombudsman as opposed to one from an ethnic minority or a female candidate. That was quite difficult for me to answer personally. That was quite a difficult question.

Q5 Anne Marie Morris: I was quite surprised that the job description did not require the candidate to have pensions experience. Clearly you have it in spades. Could you perhaps clarify a little bit the variety of that experience with some examples and perhaps, in your answer, explain how you think that particular experience fits you and would be useful for the Ombudsman role?

Anthony Arter: Indeed. I have acted for many different types of trusts, and I have acted for insurance companies and companies, and it is understanding how they go about ensuring that benefits are paid, how they go through the decision process, how they use their discretions and just seeing the different influences on a good trustee board as opposed to one that perhaps is influenced by either outside bodies or the company or whatever. Having that understanding as the Ombudsman is really important when assessing a particular complaint and so, for me, that experience is very useful.

Also, in dealing with member complaints—obviously, in my case, advising the trustees or a company—I would make sure that, where I believed it was a justifiable complaint, it was dealt with through the internal dispute resolution procedure rather than waste everyone's time in putting it through to the Ombudsman for his decision. For me, that understanding is very important, because I feel that there will be an increase in complaints over the coming years. That number is already increasing; I think that will continue.

I have to find a way in which I can make sure that complaints are dealt with in a timely manner and it does not slip. One of the things that the present Ombudsman has achieved is getting that timing much more concise in terms of turning those complaints around—80% in under six months is good. There is more to be done, and the informal process is just as important as the formal process, especially with the Alternative Dispute Resolution Directive that will be implemented in July and I would very much like to see how the Ombudsman office can fit within those parameters. They are talking about a 90-day resolution, which would be fantastic. Of course, many complaints are quite complicated and resolution would not be achieved in that time, but it would be possible to achieve that in many other cases. One of the things the present Ombudsman has really done very well is to bring that timing down and bring certainty for complainants. If I have a complaint, I want to know the process, I want to know the timing and not be left hanging in the air—especially if it is someone who only has a small pension, they are really aggrieved and they believe they have a justifiable complaint. That has to be dealt with promptly and they have to understand the process.

Q6 Anne Marie Morris: Much of your experience as a lawyer in a City firm is inevitably acting for one particular type of stakeholder, if you like, in this pensions debate: it is the large pension companies, the insurance companies; it is not the individual aggrieved saver. While you have done a lot of voluntary work, which gives you insight into what it is like to be on the other side of the fence, do you think you are going to be able to really remove that hat? Because of your wealth of experience acting for, if you like, the stakeholder, who, frankly, largely has called the shots in the past, are you really going to be able to take on board the challenges and issues for the investing member, given it is the investing member or, indeed, the small company that has been caught up in all this in trying to create a pension for its small workforce? Will you be able to get yourself into their mindset, their lower level of understanding of the whole pensions industry and the communications, which, dare I say, in the pensions industry are not great, so that you could really see it from their perspective as well as from the pension company, insurance company perspective?

Anthony Arter: I really believe that I understand the issues from an individual perspective from all walks of life. I have not had a privileged background. I had a hard time as a child. I have seen it, in all respects, in terms of struggling and people struggling on very little money. I understand how difficult it is and how much it means to them if the money is owing and they believe they have a justifiable complaint. I would certainly fight for someone who has a justifiable complaint and see it from their perspective.

I can give you an example. When I was the London senior partner of Eversheds, I always treated everyone, from the receptionist on the front door to the chairman, in exactly the same way, because every single individual is important and everyone who is a member of a pension scheme is important and would be important to me. We had a receptionist who used to run to work every day. She was Polish. She had a tumour and collapsed in front of a bus. Luckily, it just touched her; she was not badly injured from that. Her parents had no money, so I flew them over to see her because she had no way of seeing them or getting home and made sure that everyone got behind her during her recovery and brought her back. I am very much interested in the individual and looking after the individual, absolutely.

Q7 Anne Marie Morris: As I understand it, you have had experience with the police force. To what extent do you think those forensic skills are going to be also very relevant here?

Anthony Arter: Again, I was a PC around King's Cross dealing with children. I feel very sorry for children whose parents are drug addicts and alcoholics and have other problems and are just kicked out on the street. It is a jungle for them. It is an absolute jungle, and you can understand why they would smash a lovely car or whatever or steal, because they have to survive and they are brought up in that environment. I very much saw that during my experience in the police service and have a real empathy for and understanding of people who are at all ends of society. I have also dealt with people from the top, so I believe I have a clear understanding of how someone is affected and also how to deal with those individuals. I think that is really important and my experience in the police service plus also my experience as a lawyer adds up to a very strong experience for me in dealing with these complaints.

Q8 Anne Marie Morris: As a lawyer, you have to be very interested in the detail. I was formerly a lawyer and it seems to me that that ability to sift through the facts and find what is really relevant is one of the key skills. In the Ombudsman role, you will be faced with an awful lot of facts, a lot of detail, and you need to be forensic and able to work out what is relevant not just from what you have been given but what you are told is relevant, which is somebody else's perspective on the facts. How are you going to deal with all of that to really get on top of what the real issues are here?

Anthony Arter: One of the other skills that I have learnt in both roles, as a police officer and as a lawyer, is understanding the truth. Yes, I know the parameters, I know the law and I have to determine within the law, but, on the other hand, when someone presents a set of facts to me, I know that perhaps it is not quite as it would seem and I would explore those and get an understanding of those. The experience from both sides, dealing with people's interpretation of what has occurred or whatever and also how that impacts on the legal position, is really important from the Ombudsman's perspective.

Q9 Anne Marie Morris: In your very interesting career you have inevitably developed lots of relationships. You know most of the players in the pensions industry, which will be very helpful. However, it also means that you are going to have to discount personal opinions and bring a very unbiased approach to everything you do. How will you go about that? How will you, in a sense, be able to discount some of the knowledge you have or put in a different perspective so that what you do is truly unbiased?

Anthony Arter: I can give you an example of an internal complaint I dealt with in Eversheds of a secretary and some junior lawyers and a complaint against a partner. I very much treated that by absolutely looking at the facts, not taking a bias towards one of my fellow partners, making sure that I looked at what the complainants were saying and the veracity of that and testing that, and found against the partner. I am very clear in my mind that one can easily be biased. You can be biased on all sorts of things in life, but the role of Ombudsman is to make sure that, in your mind, you are not taking a bias towards a particular category or particular group of people. I am very clear with that and I think I have the experience to deal with that.

Q10 Anne Marie Morris: Bias can be partly about relationships, but it can also be bias with regard to opinions. Over your many years in the industry, inevitably you will have views about what is good practice, what is bad practice, what is good legislation and what is bad legislation. How will you deal with those preconceptions as the Ombudsman when you are dealing with the law, imperfect as it is?

Anthony Arter: I am not there to change the law, in my view. Going back several Ombudsmen to when you had Julian Farrand, he did attempt to change the law, in some ways, and challenge the courts. I do not believe it is my role to challenge the courts. I would not want to see many of these complaints going on appeal to the court because I am constantly challenging the law.

As far as having an opinion, I might have an opinion—we all have opinions—but I would work hard to make sure that I am being fair and not being, in my head, controlled by an opinion I hold, which would be unfair to the complainant or the other party, come to that, on both sides. I do feel the job of the Ombudsman is, where a complaint is completely unwarranted, to protect the trustees or the insurance company as well. It is taking a fair, unbiased approach on both sides to make sure it is the right outcome.

Q11 Anne Marie Morris: Is there anything that you are aware of that you think would ever, in your role, give you a conflict of interest? I do not know whether you have had any political involvement.

Anthony Arter: No. Pensions is riddled with conflicts. It is something that I have had to deal with all the time. I am chair of a small trust. I have also, of course, represented a number of pension schemes. In the judiciary, for example—I might be wrong on this—I believe that when a judge is appointed they cannot take any case involving a client of their chambers for a two-year period after appointment. I may be wrong on that, but I understand there are some sorts of criteria laid down. It not just actual conflicts; it is the perception, and I would not be comfortable dealing with a complaint from one of my former clients. I would rather give it to the Deputy Ombudsman to deal with, have a Chinese wall and stay completely clear of it so there is no suggestion that the Ombudsman's office is being biased in that particular case.

Q12 Anne Marie Morris: That is quite honourable and it would sound like the right thing to do, but given the breadth of your client base, is it practical?

Anthony Arter: I might have a few well-known clients, but the number of pension clients is enormous. That is why we have so many pension firms that represent all these clients. I would like to think that perhaps I was so successful that I represented the vast majority, but I did not. There are many pension schemes with which I have had no contact whatsoever.

Q13 Anne Marie Morris: What about those that were clients of your firm as opposed to your personal clients?

Anthony Arter: I would have to look at it very carefully to see what the contact was. My first inclination would be not to deal with it, but if I felt there was not an issue at all, then I may. I would have to look at it on a case-by-case basis.

Q14 Anne Marie Morris: Do you have any political views with regard to pensions legislation, because inevitably different parties have very different views?

Anthony Arter: No. Whichever political party has been in power, there have been constant changes in pensions and I am sure it will continue, and of course this year is no exception. It is just incredible the way that changes have occurred throughout time, and of course it is very costly for the country, it is very costly for companies, so it is not surprising that every political party wants to try to provide a pension for the population and also make the right decisions, and it has been quite difficult dealing with accumulated rights and so forth. It is a very difficult area and each Government grapples with this, so I am sure there will be further changes. I have no view about a particular party taking a particular line, because I think, by and large, most political parties try to come to the right conclusion over pensions and try to get to the right decision. It is just a very difficult area to deal with, as you would know from your Select Committee.

Q15 Anne Marie Morris: You mentioned, rightly, your existing roles: your chairmanship of the Trustee Board of FMC Chemicals' pension plan and your membership of the Pensions Management Institute Accredited Adviser Programme Committee. Would you resign from those roles?

Anthony Arter: I have resigned from the PMI as an independent member of their Board. With FMC Chemicals, it is tiny; it is £40 million, 200 members. It is due to wind up this year. They went through a difficult period because the trustees and the company fell out before I was appointed. The regulator insisted on an independent appointment and I was appointed to be the independent trustee. I then became the chair. I resolved the issues. I put guarantees in place; a large amount of money was paid by the company, etc., and brought it all together. It is very successful now and no one there wants to see me disappear, at this stage, when they are about to wind up the scheme, so I feel it would be unfair to resign, but if I have to, then I have to. However, personally, I do not think it is necessary; it is such a small scheme of which there have never been any complaints, by the way, to the Ombudsman's office.

Q16 Chair: You said that you would hope you would not be biased and absolutely we hope you would not be biased, but by the time a complainant gets to the Ombudsman they have been through lots and lots of processes and had a lot of knock-backs. Do you not think the role of the Ombudsman is to be on their side?

Anthony Arter: I think it is important to be fair. I feel it is important to give the individual a voice. I mean, I feel with my experience I would understand where the lawyers or advisers would be coming from in a complaint. I feel I am in a good position, with my experience, to deal with them. It is not a question of bias. It is a question of making sure that the individual complainant's voice is heard and understood and that they are fairly represented in their arguments and to help in that process. It is not necessarily a bias, but just to make sure the balance is right between the two sides. I think that is quite important.

Q17 Chair: Inevitably, the claimant is the little man.

Anthony Arter: Exactly, exactly.

Q18 Chair: The reason they are probably at your door is because they have not had a fair hearing up to that point.

Anthony Arter: If I feel there is an unfair approach by the representatives of the other party, whether insurance company, trustees or whatever, I would make sure that I would help that individual deal with those issues. Again, I do not think it is a question of bias. Maybe it is bias, but that individual probably has no knowledge of pensions and no understanding, as the majority of people do not, of the way in which a particular rule might operate or whatever, and I would make sure that I would help in that process—yes, absolutely.

Q19 Nigel Mills: Mr Arter, can we just run back through your past career? Obviously, the Metropolitan Police have had the occasional bit of bad publicity. Is there anything from your time in the police that might be a skeleton in your closet that might appear when you have this new, high-profile role?

Anthony Arter: No. In fact, because of suggestions of corruption going back to the 1980s, as a DI, I could not work in Scotland Yard. I was in another office outside of the Yard, although, as far as everyone was concerned, attached to Scotland Yard, in order to investigate organised crime. I had a very specialist unit for a two-year period and I, in fact, smashed that particular gang who were bringing heroin in from Pakistan, exporting it to an organised crime family in Los Angeles in exchange for cocaine, which they were bringing back to this country for four times the value at that time, so it was a good profitable business for them. Due to the suggestion of contacts they had within the police, I ran a special unit completely separate from anyone else. I pulled officers in when I needed them to do a raid or whatever, but it was completely separate. So, if you like, I was on the other side to any suggestion of corruption or anything else and I really enjoyed that job, that role. I did that just before I went to university.

Q20 Nigel Mills: Okay. It is obviously all a long time ago in the scheme of things. At Eversheds you were the senior London partner for a good few years. I guess if we read yesterday's newspapers we will see there are lots of scandals of firms being involved in what would now be seen as unacceptable tax avoidance. Was Eversheds ever in that area? We do not want "Pensions Ombudsman helped large companies avoid tax" or something as a headline, do we?

Anthony Arter: Eversheds do not have a private client department, so I would suggest that the firms that might be concerned about that would be those that do have a private client department and advise people with money that they want to put offshore or whatever. Eversheds do not do that. They are a corporate firm. As far as their own tax affairs are concerned, it is all published. I have never seen any dealings. Personally, I pay all my tax here. There has never been any suggestion within Eversheds of being involved in any sort of good arrangement to save tax or bad arrangement to save tax.

Q21 Nigel Mills: Depending on your point of view, yes. I am trying to find the way to ask this in the right language. Do you still have the hunger for a role like this? You said you were looking for something to do for the next year and this is clearly a four-year appointment. I suspect this will be a challenging, frustrating and probably quite time-consuming role. Is that something you are still up for, having retired as an Eversheds partner?

Anthony Arter: I was really busy as the London senior partner, as you can imagine, also running the pensions team, and I finished and thought it was going to be jolly good. I bought a boat, sailed it down from Scotland and thought, "This is a nice life, but actually I am pretty bored." I am very lucky; I have loads of energy and the role of the Ombudsman is really important to me. When I thought it through, I felt I had the energy, I had the enthusiasm, and I wanted to see it continue in the success that the present Ombudsman has given it, and I think it is going to be a very difficult time. You are right.

I think with budgetary constraints, the top tier of the Ombudsman's office all going at the same time, the changes to pensions over the coming year, auto-enrolment with lots of small companies and, probably, issues, there will be challenges for the office of the Ombudsman. I have the energy and the enthusiasm and the fight, if you like, to make sure that it is successful over the coming four years during what I think is going to be a challenging time.

Q22 Nigel Mills: To follow up on a question that Anne Marie asked you, I suppose your career at Eversheds has been working for pension schemes/companies/employers. Presumably, your instinct has been to, effectively, defend against complaints and try to help the pension scheme survive any challenge. How do you change your mindset from "the scheme has tried to do what is right" to being truly impartial in that situation?

Anthony Arter: I have always tried, in advising trustees, to take a fair route, and I will give you an example. I believe the trustees are there to act in the interests of the members, and when it comes to an issue for the company and trustees, I can give you this example. There was one very well-known company where the trustees had overpaid benefits over a number of years and, as you probably know, they have a right to reclaim those monies. The company were very keen to push the trustees to reclaim the monies. There were a large number of members involved and there was a high majority of members who only had a tiny pension—a very small amount. The monies that had been overpaid over the years added up to a fair sum and would really have an effect on those individuals. Yes, I represented the trustees, represented their approach, and I argued, successfully, in the end, that they would not reclaim all these monies. They reclaimed some of the monies from some of the big pension schemes and that was repaid over a period of time, but the small pensions they left alone. So, even there I was interested in the individual and how the individual would be affected by that mistake, which was no fault of their own.

Q23 Nigel Mills: In your application you said you have resolved many disputes. What do you think are perhaps the key challenges in resolving a dispute so that, hopefully, both sides think the right answer has been found and that is the end of it at that point?

Anthony Arter: It is important that, externally, the pensions industry understands the Ombudsman's position on the various types of complaints so that, hopefully, it will encourage them to resolve these issues much more within their internal dispute resolution procedure, because it will not be any use pushing it to go to the Ombudsman. That is the number one priority.

I do think what has been achieved recently is a lot more informal resolution of disputes and I would like to continue that process. I think that is a really good way of dealing with it. I think only 24% of the complaints that are accepted by the Ombudsman's office end up with a formal resolution by the Ombudsman. That has increased slightly, but I would like to see that decrease, if anything. Obviously, there are some very complicated complaints that have to go through the whole process, but there are probably plenty of complaints that can be dealt with informally. Again, going back to the alternative dispute resolution procedure and also the online procedure regulations that come in January 2016, we have to have the IT system and facilities in place to be able to do that, to control a lot of these small complaints and get rid of these complaints. I hope that answers what you are asking, Nigel.

Q24 Nigel Mills: Did any of the schemes you were advising ever have to have a complaint referred to the Ombudsman? Did you ever advise a scheme on how to handle the Ombudsman process?

Anthony Arter: I explained the Ombudsman process. In many cases I have explained, "There has been maladministration here. The Ombudsman is likely to award £250, £500. You are better off"—and this is again saving the Ombudsman. This is where the contact externally with the providers is really important, for them to understand that it is going to cost them the order of whatever is the amount of money awarded for maladministration of the day, and they are better off, saving fees and everything else and time, settling this early on. I have encouraged the payment for any maladministration that I believe has taken place to be paid there and then and not argue. It is cheaper for them than trying to win a case with the Ombudsman and pay legal and other fees for the actuary and elsewhere. It is cheaper for them just to settle it and the complainant then goes away content, they have what they wanted and it is fair. They do not have to go through a whole process and the poor individual, if it is just one complaint, has all the stress of the whole process.

Q25 Nigel Mills: Presumably, the reason why you would give your clients that advice is because you think the Ombudsman is pretty tough and would have not found in your client's favour. Presumably, that is the impression you want people to keep having; that if something has gone wrong, the Ombudsman will keep finding in favour of complainants.

Anthony Arter: That is right.

Q26 Nigel Mills: I am thinking of some other casework. How would you handle a case where somebody feels they have been very unjustly treated and the outcome they have had is not right, but when you look at the very strict law, maybe the very strict scheme rules, it looks like what has been done is within the letter of the rules if not the spirit? How do you handle those as an Ombudsman, if it looks like the individual has a pretty good case but the outcome is not what we all thought they ought to have had, but it is in the letter of the law? How do you handle those?

Anthony Arter: I do not feel one can go beyond the law. I am not in your position or Parliament's position in being able to change the law, and we all know that there are cases where you might think it is unfair, but that is the situation. It is a bit like it is frustrating over these pension liberation cases and the scams that are occurring. It is very difficult. One would feel sorry for an individual who was caught by a situation like that, but the reality is that the rules of the scheme are the rules and it can be unfair when one set of rules allows one thing for one scheme and another set of rules for another scheme allows something else. That is the way it is, and I have to apply the law as it stands. I cannot go beyond the law, although I can try to negotiate informally if I think there is room for some sort of informal agreement between the member and the trustee. I can try that outside, but ultimately, if it is absolutely outside the legal parameters, I cannot force a company to do something if they are just abiding by the rules of their scheme or conditions.

Q27 Nigel Mills: A good number of the complaints that get to the Ombudsman are either about how the illness provisions are applied or how the discretion of the trustees or the scheme has been applied. Presumably, a lot of the cases you will end up deciding are not "the rules say X, therefore it has to be that". It is "has everybody acted reasonably in how they have applied their discretion?" In that case, you would then try to get to what you think might be a fair answer in the situation.

Anthony Arter: Discretions are very interesting and the Ombudsman has pushed back a number of cases for the trustees or the insurance companies to consider the issues again if they have not considered all the points. There was a recent mental illness case that you may have spotted; it has only just come out. The Ombudsman has pushed the case back to consider whether they have thought through the issues about the person returning to work, for example, in that particular case.

For me, yes, discretion is a very interesting area, and of course you will probably be aware it still has not been tested in the courts, but the Ombudsman would like some evidence of the trustees going through a proper process when exercising a discretion, and I agree with that. I agree that there should be some evidence that they have considered all the appropriate issues they should have considered when exercising that discretion. The Ombudsman cannot exercise the discretion for them. That is their prerogative. I am very clear about that. On the other hand, I want to make sure that, especially in ill health cases, they have gone through a proper process and really considered all the issues.

Q28 Nigel Mills: Presumably, if you came up with an informal or formal finding that they had not exercised their discretion using the process they ought to have used, that effectively means they have come up with the wrong answer, does it not?

Anthony Arter: Just as has happened in the past, I would push that back to them to go through that process again, but there are limits on what the Ombudsman can do with regard to the exercise of discretions. Provided they come back and they satisfy, yes, they have thought about X, Y, Z and so forth and they still come to the same conclusion, there is nothing the Ombudsman can do about that. I have no power to exercise discretion in their place.

Q29 Chair: You said, quite rightly, that you are not there to change the law; that is Parliament's and, indeed, Ministers' responsibility. However, if you picked up a pattern or you saw that there were a number of occasions with very similar things where the law was clearly unfair in its application, would you take those concerns to the Minister?

Anthony Arter: I would. I would have discussions with the Minister, show him the evidence and argue—I would talk to all the interested parties within. I would talk perhaps to the regulator and others and I would go to the Minister and certainly put my case. I would do it internally, because it is not my place to change legislation, but I would certainly argue that with the Minister, yes.

Q30 Graham Evans: Good morning. I notice that you have had a lengthy career in the police force—25 years. Did you go to university before you joined the police? I notice you went to Cambridge and studied law. What did you do before you joined the police in terms of education?

Anthony Arter: I had a pretty tough childhood. My father left us when I was two. My mother had several nervous breakdowns, so I had quite a tough time as a child. I had no interest in school at all, just surviving. I joined the Police Cadets. My education was virtually nil when I left school. I then took exams, though, as I progressed in the police service—you could say the police service probably saved me—and was successful. As a detective inspector, I came top of the course and applied for a Home Office scholarship to read law and was very fortunate that Jesus College Cambridge took a gamble and took me.

Graham Evans: I would say it was a safe bet.

Anthony Arter: It was fantastic and I really threw myself into it and really enjoyed it, but of course at university I met several individuals who were going to be lawyers and did make their way as lawyers, so I went back into the police, was promoted rapidly through the ranks but was pretty bored. I thought, "Do you know? We have one life. I would really like to make my future as a lawyer and see how I get on." I did not contemplate being a pensions lawyer at that stage, I have to be honest, but nevertheless I changed career and am very pleased I did.

Q31 Graham Evans: You have come a long way. My question is about the impact of development in pensions policy because, as you have rightly said, there have been an awful lot of changes made. What impact are these changes likely to have on the role of the Pensions Ombudsman Service, do you think?

Anthony Arter: As the current Ombudsman has identified, there will be a different cohort of complainant with auto-enrolment. I do not think it will be the standard defined benefit member. There will be, obviously, defined benefit complaints still coming through, but I think there will be a larger number coming from auto-enrolment. Certainly there will be a delay, because it is only the very small companies now beginning to auto enrol, so there is probably a delay of a year or so, but I think there will be more and more complaints.

In terms of the pension changes and not so many annuities being taken and people taking, perhaps, monies from their scheme, there may be problems there where there will be more complaints. The type of complaint will change, the type of complainant will change and I do believe that the process of complaining at the moment perhaps needs more work, again as has been identified by the current Ombudsman and I absolutely agree, and it should be a much more simplified approach, much more straightforward. With communications changing, as they are all the time, it is very important that the Ombudsman's office keeps up with those changes. I would quite like to see a video clip, for example, rather than read the next five pages of how you make a complaint. Youngsters today and other people would rather just see a quick YouTube video or whatever of how they do it. There are changes that can be made to help the process.

I do think there will be a change in the type of complaint. I think the number will increase. I think the publicity that pensions is getting almost daily now will mean people will focus much more and will feel they have made a mistake or have been pushed into something or other and are more likely to have complaints.

Q32 Graham Evans: You have just answered my next question in terms of using technology. As Anne Marie said, on communications and the way that the industry communicates with its clients or customers, trying to fathom out your pension statement is still difficult, not straightforward and varies from year to year. If you buy an online ISA you can check your account by going on your iPad; it is instant. Utilising the technology you mentioned, YouTube videos, for example, do you see a time when all these millions of people who have started up with auto-enrolment—it is a 40-year deal, is it not—can almost see in real time how their pension is performing, and at the touch of an app, you have your dashboard and you can understand how it is performing?

Anthony Arter: I really hope so. I do not have a crystal ball here, but communications is changing rapidly all the time and, hopefully, with Government support pushing insurance companies and others to be more transparent in the products they are selling, it will be possible; you will be able to go online immediately. There will be pressure, I am sure, from the general public to have that access to information, so yes. It is important for the Ombudsman's office to realise that and make sure that the procedures that the Ombudsman's office has are in line with that. That is why I say we must fit in with the online alternative dispute regulations. It was just last month that the present Ombudsman got online encryption, so he can exchange information. That is only just in place. These things are happening now, so there are a lot of IT issues that still have to be ironed out there, but that is so important. We all have problems with IT, but we have to make sure the IT is second to none for that office and works really well.

Q33 Graham Evans: That is really quite reassuring, because technology is the key certainly for the next generation of pension savers. Currently, you get an annual paper statement, which does not always give you all the information that you need. You should be able to go online and see how your account or fund is performing, as it were.

Anthony Arter: Indeed.

Q34 Graham Evans: In terms of complaint handling, as you rightly identified, there are millions of new pension savers with auto-enrolment. The timescale for responding to complaints is already pretty slow—you are looking at six months for a case to be allocated to an investigator. Do you think this is acceptable? Is that something that you have recognised that could change?

Anthony Arter: I would like to see the eight-week period that it takes for the Ombudsman's office to decide whether it is going to proceed with a complaint come down. I am not involved internally, so it is all very well for me from the outside to say I would like to see this. Obviously I will have to see what the issues and problems are, but I would like to tackle that. Again, looking at that alternative dispute resolution, they are talking about three weeks in which you decide whether a particular complaint can be dealt with through that procedure. I would like to see maybe a month—I do not know—but I would like to see it come down from the eight weeks, so there immediately is a saving in time. I would like to also work with TPAS. You are probably aware that the DWP are looking at the customer journey as part of their triennial review, and that is really important. I would like to work with the DWP and also with Michelle Cracknell, the Chief Executive of TPAS, to look at the whole process and see if we can tighten it and make it better.

Q35 Graham Evans: You mentioned earlier about using discretion. What about those cases where there is an element of urgency to prioritise, such as terminal illness, that sort of thing, getting lost within the pile that comes in? Is there anything you can do to recognise that sort of case?

Anthony Arter: Where there is a definite reason—perhaps someone is suffering from a terminal illness, there may be a particular reason why it is really urgent or maybe it is a financial reason—there could be a system in place. However, you have to be careful there, because everyone might say, "This is really urgent," for a financial reason, so I would have to look at that. There may be a faster track approach, but it is very important not to lose the fairness of the approach in setting up a process to make sure that it is fair for all sides. I see the role as being completely independent here between all sides, all parties, to make sure that the right decision is made in each complaint, and so I would want any process to make sure that that is very clear.

Q36 Graham Evans: As MPs, we have surgeries and people come to see us. We are experts in everything and nothing, but working on the Work and Pensions Select Committee some constituents think I am an expert in pensions, which I am not, but some of the language that is used in the industry is confusing. "Active member discount" is completely the opposite if you are not an active member, and they come to see us with these sorts of things and ask how can we advise them. How can the industry help itself, as you were indicating before, regarding paying up early and coming to an arrangement? What more could they do?

Anthony Arter: Pensions is a minefield. There are so many terms and it is just very difficult. Communication is vital here. It is absolutely key, and I would make sure that it is simple so that the person for whom perhaps English is not their first language or whatever it might be can really understand. That is why video clips are good and so forth. Communication is going to be key, and to keep it simple and to not use terms that people would have to start looking up in a dictionary or whatever to understand. To make sure plain English is used in all cases is really important.

Q37 Graham Evans: Customer service I think it is called—that the pensions industry can answer ordinary laypeople's queries. A constituent told me, because of the changes the Government is putting in the single tier pension, it prompted him to look at the other pensions he had from his earlier life. He had several pensions, some of them quite sizeable, but he wanted to put it all together so he could see what he would get when he retired. He showed me a letter from a company when he asked for an up-to-date statement on his fund, and it said, "There is no legal obligation for us, the company, to provide you with that information." I thought that was terrible. It is nothing to do with legalities, the law; it is about customer service. It is not an unreasonable thing for a pensions company to notify somebody who has used their services for pensions. I think sometimes the industry hides behind the law; it is about customer service and communication.

Anthony Arter: I agree.

Chair: Graham likes customer service.

Q38 Sheila Gilmore: Both the pensions' complaints landscape and the more general Ombudsman landscape are quite crowded and there have been a lot of different attempts to see if some of that could be brought together. The DWP's own triennial review of pension bodies looked at some options but did not take any action. Have you had a chance to reflect on that and how you think you could interact more effectively with the other bodies in the field?

Anthony Arter: It goes back to the Thornton review, does it not, in 2007? The recommendation was for the Financial Ombudsman Service to be merged with the Pensions Ombudsman, for example, and then, when they started the process, they realised that was very difficult, so there are issues. Perhaps there is a bigger issue here of the whole way in which financial services operates, bigger than just the ombudsman services, but that is an issue. For me, working with TPAS on the complaints procedure, from dealing with the internal dispute resolution going through to TPAS, then coming to the Ombudsman, is very clunky; I think that is a good word. It does not seem to be a very smooth process, and I would be very keen to work with TPAS to see how we can make that a much more straightforward, simple approach. I do not have a golden wand; I cannot say, "Yes, this is obviously the answer," but it is something I would want to explore very early on to see how we can improve that process, because that is where a lot of delays and issues occur. I know TPAS has quite a lot on their plate at the moment with the changes in April and the advice that they will be giving and so on, so she already has a lot to deal with, but I would want to work with her to try to address that particular issue.

Q39 Sheila Gilmore: How do you think you can make it easier for the individual complainant to navigate their way through this?

Anthony Arter: In the advice given, perhaps in the video clip I talked about earlier on, it should be talking about the process, not just what the Ombudsman's office is doing but working with TPAS to see if we can do a combined approach here. Obviously, they use volunteers to talk through the issues and try to resolve them, and I think that is good; I think that is important. If I am a complainant, I really want to understand how my complaint is going to be dealt with: the process, the timing, what I can expect, and that has to be very clear, and I think it is a bit muddy at the moment. It is a little bit confusing and I would want to tighten that. I cannot give you a precise answer as to how that is achieved, but I would look to see the art of the possible and what we can do. Certainly there are things to be done, but until I become involved, it is very difficult for me.

Q40 Sheila Gilmore: Do you think there is anything to be learnt from other ombudsman services? For example, the Public Services Ombudsman is trying to improve its processes at the moment. The Public Administration Select Committee has issued a report on how it thinks the various parts of ombudsman services could be better designed. Have you got any knowledge of that at the moment or do you see that as having any relevance to what is quite a niche field in pensions?

Anthony Arter: That is a really interesting point. I had not really thought about talking to other ombudsman in other fields, but that is a really worthwhile thing to do. I am not sure whether there is anything that is precisely the same. I am not sure if the TPAS-Pensions Ombudsman relationship is replicated with other ombudsman offices. Obviously, I would talk to the Financial Services Ombudsman, but others might be worthwhile, absolutely.

Q41 Sheila Gilmore: You and the Deputy Ombudsman will both be new in post, so that means trying to establish your leadership and good working relationships with existing staff, and change is always difficult. How would you approach that, and how do you think your previous experience would help you do that?

Anthony Arter: This is really important. For me, that office, it is a team approach. They have to have confidence in the leadership. We have to work together very early on, because it is human nature; with the whole of the top tier disappearing, there must be concerns within the office, I would have thought. It would be natural. I would want to steady the ship. I would want to explain how important those individuals are to me and to all of us, and it is one of the skills that I think I have, having built various teams where morale has been low or whatever and built that morale. For me, it is all about working with everyone and realising that they are a very important part of the team. That would be one of my first jobs: to ensure that we are all going in the same direction—that they understand that there is not a massive change occurring because the incumbent who has been there for some time is going, and that I am not going to go in there and completely change everything, because I am not. That would be foolhardy. I want to look at it very carefully and then see what improvements can be made, but do it together so that they understand. Again, it is internal communication and relationships.

Q42 Sheila Gilmore: What key questions would you put to the outgoing Ombudsman and Deputy Ombudsman as they are relinquishing their roles?

Anthony Arter: I would want to understand, for a start, this whole process, to really understand from the present Ombudsman exactly what he has done. You talked about talking to other ombudsmen. He probably has done that; I do not know. I do not want to do the same thing again that he has already done. I want to learn from him.

The finances: it is quite tight on the budget. I think there will be pressures on that budget. I have to understand how he has established his costings. For me, that is important as well, because we have to have value for money and make sure that we work within that budget, and I have to understand how he has achieved that. For me, that is one of the early questions as well.

Another question would be on any particular complaint or stream of complaints and to understand his approach to them, because one of the things we have to have is consistency on the complaints that come through. Probably the knowledge management side, looking at his business plan, is still to be finalised and, therefore, for me, that also is very important, to make sure that we do not make a decision in one particular case when we made a completely different decision in another case; it is consistency of decisions on the same facts.

Q43 Chair: As constituency MPs, we get people in who, at some point, some unfairness has happened to them and that unfairness has eaten away at them and eaten away at them, and very often their health has deteriorated as a result and really what they are looking for is closure. We cannot always give them that closure until they get to the Ombudsman. The Ombudsman is the last port of call, because once the Ombudsman makes that decision, that is it; there is no appeal anywhere else. How do you deal with the group of people where there possibly has been an element of unfairness—that is why they are going through the process—but when you look into the case it is not maladministration and you cannot find in their favour? How do you help to give those individuals closure? There is nowhere else for them to go.

Anthony Arter: I am quite happy, not in every case but in some cases where I really think it is important, to see the individual face to face, because there is nothing like, as you do in your constituencies, seeing an individual who has a problem. I should be available, not for all cases, because I could never do it, but for particular cases to explain to the individual and answer their questions and why the decision has been made. Also, I should in the written word as well make it very clear, in plain English, exactly why the decision has been taken that has been taken. It is a balance between the written word but also, in some cases, seeing the individual where I think it is particularly harsh, but we are where we are.

Q44 Chair: You have four years in post. At the end of four years you look back at your time in post: what will success look like?

Anthony Arter: Success will look like communication is really good, really straightforward, really simple. I have brought the timescales down. I have produced value for money. I will probably need a higher budget, I would think, if I am brutally honest about it, if the complaints continue to rise as they are, to make sure we provide the service, but hopefully within constraints. For me, it is my reputation in being fair to all parties as an Ombudsman. I would want to be known as being a very fair person and strong in dealing with issues on behalf of individual members.

Q45 Nigel Mills: There was one you did not have there that is one of the current aims of the Ombudsman, which is to improve how pension schemes are run—that your decisions will make other schemes not make the same mistake. Is that something that you would hope to see at the end of four years—that the pension industry has improved its practices?

Anthony Arter: Absolutely right. I am very happy to, and I will, talk externally to particular groups. I know that the current Ombudsman has regular meetings with different constituencies. I think that is really important, and it is really important then to help them in their process to make sure that the reputation of pensions is enhanced. It is much less likely then to result in complaints. From their perspective, it is much better because they will save costs, just looking at it from a purely monetary point of view. I would very much want to go out to industry so that they have a clear understanding, and then work together, in that they improve their service to their members as well and the customers.

Q46 Mr Thornton: As part of a follow-on to that, but also as part of Graham's comments earlier and the whole general thing on financial education and financial services, I was involved with pensions, and there is a massive assumption that old people are no good online and young people are brilliant online. A recent study that I went to this morning—one of the reasons I was late—totally disproves that. One of the things you might be interested to know is that there is an absolutely massive amount of evidence, and this shows all the people involved in this study, that shows that people understand stuff by post rather than by email, across all ages and social mixes. In fact, it is so huge that you cannot believe the figures and you would have to go through it. One of the interesting things is that 42% of people who were shown a very simple bank statement did not understand what the amount of money in their account was. Of that 42%, 68% failed to understand it if they were looking at it online, 18% failed to understand it if they were reading it printed out, sent by post or equivalent. This was not 96-year-olds failing and 18-year-olds failing; this was across the board. I myself love IT; I do everything online. My father died at 96; he did everything online—absolutely everything.

My worry here is that if we grasp too sharply everything that you just said—people make a complaint to you and you concentrate on doing it all online—it just goes to show that across the generations we are going to have a genuine problem of understanding. You, as Ombudsman, can also spread that message down to people. It is cheaper for people to send out information online, but there seems to be at the moment a massive failure for people to understand what they are doing. This was a shock to me. I thought there would be some difference, and my argument is you can print it off and read it, but people do not. My main worry is that if we go hard down this “e” line, and having seen people and myself, as an adviser, not understand what I was selling when I got into the industry—when I look back on it, I sold things 30 years ago that I did not understand—we have to be incredibly careful. One thing you have to do is say, “People do not understand a simple bank statement; are they going to understand a more complicated thing about a pension?” I very much doubt it.

Anthony Arter: That is a challenge. As I have said with the communication, it has to be as simple as we can possibly make it, and my 90-year-old mother-in-law would not touch a computer, so we have to allow a system that caters for everyone. It is really important. I am not saying electronic communication is the only answer, or post; there has to be a combination, and we have to make sure that the individual concerned is communicated with in the way that is most appropriate for them and using simple English, if we can, in the complicated world of pensions.

Chair: On that note, we will call a halt. Thank you very much for coming along this morning. We will now consider our report, which will be published on Friday, but you should know before then one way or the other. Thank you very much for your time this morning.

Anthony Arter: Thank you very much.