

# Work and Pensions Committee

## Oral evidence: Work of the Pensions Ombudsman, HC 579

Wednesday 8 July 2020

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Members present: Stephen Timms (Chair); Debbie Abrahams; Shaun Bailey; Steve McCabe; Nigel Mills; Selaine Saxby; Dr Ben Spencer; Chris Stephens; Sir Desmond Swayne.

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### Witness

I: Anthony Arter, Pensions Ombudsman and Pension Protection Fund Ombudsman.



## Examination of witness

Witness: Anthony Arter.

Q1 **Chair:** I welcome everybody warmly to this meeting of the Work and Pensions Select Committee, particularly Anthony Arter, the Pensions Ombudsman. Thank you very much for joining us this morning.

**Anthony Arter:** Thank you very much.

Q2 **Chair:** We have lots of questions to ask you. I am going to start, if I may, with the first of them. You recently made an important determination on the Norton Motorcycles pension scheme. There may be an appeal on that, so we should stick with generalities for this morning, but I wonder whether you could tell us how much you work with the Pensions Regulator on a case like that, and are there any other bodies involved in looking at a case of that kind?

**Anthony Arter:** I did not work with the regulator in respect of that, because we have a framework agreement in place, and I respect the constrictions of the way in which it operates and the way in which we operate. We have to be careful with the information that it provides to us and we provide to it because of those restrictions.

I was aware, of course, that there was an inquiry going on by the regulator, and prior to that I had made a determination myself before the regulator became involved. I had had a complaint regarding a transfer that had been refused or had not been dealt with, and I made a determination that that transfer should take place. Nothing happened. As a result of that, I made another determination for another member. The same thing: refusal of transfer. I then realised that there was much more going on with the way in which the three schemes were operating, and I really wanted to have an oral hearing, listen to the trustee and understand where the moneys were going and what was occurring here. That was around the same time as the regulator appointed an independent trustee at the invitation of the single trustee, Mr Garner. As a result of that, the scheme assets were frozen.

That was all in the public domain. I knew about that. I decided that I would go ahead with taking a different approach so that I could, if I determined in this way, give the moneys back or instruct and determine the respondent to pay all the moneys back personally to the members. It was a new way for me to deal with this type of issue in that I only had 31 complaints—31 members out of 300-odd members—and I really wanted to be in a position to restore the funds to those members. You will appreciate it is a complicated case.

As a result of the approach I took, we brought the independent trustee, Dalriada, in as a complainant so that I could direct in my determination that all members were recompensed by the respondent.

Q3 **Chair:** If people are victims of a scam with a defined benefit pension scheme, generally, should they come to you or to the Pensions Regulator?



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How do they know where to go?

**Anthony Arter:** I would hope that if someone believes they have been scammed or they have been scammed, they would make a complaint to me, absolutely. I think it is also worth them informing the regulator, because it takes a different approach—it looks at whether there has been any breach of the regulations—and the FCA, of course, in terms of whether there has been an IFA involved or how they were advised. I think it is quite important.

It is complicated, of course, for the public. There is no doubt about that. It is a very complicated scenario. We are working together with TPR, with the FCA and with the Pension Protection Fund. We are all working together now to see how we can act more quickly and, given the constraints, how we operate to make it easier for the public and to make sure that the right body is dealing with that issue at that time.

We are also talking to independent trustees. Dalriada has about 80% of the cases given to it by the regulator. We are talking to Dalriada but also to other independent trustees about—where it is appropriate, given the approach I have now taken in the Norton case—where we can take action with a pension liberation or a scam in a similar way as we have done with Norton. There are a number of those cases that we are looking at at the present time.

It is resource intensive because in every case I have to have an oral hearing. That takes, as you can imagine, a lot of my resources and time. It is clear from the Norton determination that a lot of work goes into the case. There are a lot of issues that have to be addressed.

Q4 **Chair:** A last point on this. Typically, in a case of this kind, how long does it take for people to get their money back?

**Anthony Arter:** In normal cases where I make a determination, the vast majority get their money back within 28 days. In a case such as this, where it is subject to appeal for 28 days, after that, if it is a trustee company that has gone into administration and we are finding the individual trustee or trustees liable, they can go bankrupt. The moneys have to be traced. If they refuse to pay, the normal approach is that I declare a copy of my determination, which is taken to the county court, and the county court judge will then enforce that determination. It is not a further hearing; all the county court judge will do is absolutely enforce the determination that I have made. That is a process that will take a number of months. Of course, if the individual goes bankrupt, it could take a long time and, unfortunately, there may be no moneys there at the end of the day; it is very sad.

**Chair:** Yes, indeed.

Q5 **Chris Stephens:** Good morning, Mr Arter. Your term of office expires next year, so my first question to you is: do you believe your successor will have an easier or harder job than the one you started at the start of your term?



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What do you believe the biggest challenge is going to be?

**Anthony Arter:** I hope I have done enough in my five years to make it easier for my successor. There will be different challenges, of course.

Perhaps it might be worth my explaining the changes that have been made and where we are today compared with how the ombudsman service operated five years ago. Five years ago, there was a massive backlog of cases, and it was building daily. As I took over in May 2015, it was really concerning. All the senior people left at the same time—the ombudsman, the deputy ombudsman and the casework director—so there was no hierarchy or experience from the past. Also, the whole system was predicated on what had been set up by Parliament in the '80s, which was for a determination to go through a proper procedure and for the ombudsman to make a determination. There is a lot of administration and process involved in that, and that is time-consuming.

In addition, we had the Pensions Advisory Service at that time running a separate system of investigation of disputes informally. That was set up as a charity. Sorry; that was set up in the '90s, not the '80s. The Pensions Advisory Service was set up in the '80s, and it was not changed when the ombudsman service came into being.

As a result of that, you had a two-tier process. The public could either go—and this is where it was confusing to the public—to the Pensions Advisory Service to see if they could get the dispute resolved, or they could come straight to the ombudsman, so there was a decision to be made. People do not understand pensions in the first place, and I thought it was very muddled. Also, if they went to the Pensions Advisory Service and their dispute was not settled, it then came to the ombudsman and started all over again, so you have lost a year or more going through a process by the time you start the whole process again through a second body. Again, a complete waste of time—stressful for the individuals, and difficult and costly for the respondents.

When I arrived, I wanted to do a number of things. First of all, I changed the process so that you had a much faster process. I brought in informal resolution. With consent on both sides, provided that could be resolved in a reasonable space of time, that was obviously the way to go and much, much quicker.

I had an experienced body of people. They were called investigators, and I changed their name to adjudicators. They adjudicated and issued an opinion of what they felt the ombudsman would decide. That works really well. Today, 95% of all disputes are dealt with by informal process, and that has reduced the time. When I took over, it was over 10 months. The average time for a new complaint—*[Inaudible]*—10 months. It is now 5.3 months. Going through the early resolution team, which was the old TPAS team, that takes, I think, 3.9 months. The timescale has really reduced and that is far better for the public.



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The second thing I did was that I started building relationships with the stakeholders, with the pensions industry, with the big public sector schemes, with the unions and with the big private sector schemes. I started talking to them about how they could resolve their complaints, what I would decide and why it was a waste of time not dealing with those complaints properly. If they did not deal with those complaints properly, it would come to me and I would find them, as a result, guilty of whatever they had done; but also, because they would have the publicity about it, the relationship with their members would be much poorer, it would cost them more money as a result of going through a big process, and it would be much better for all concerned—especially their members—to deal with it in the first stage.

I also tried to persuade them to reduce their two-stage internal dispute resolution process, which the legislation allows, to one stage. That saves another six to 12 months of time in going through a process. Again, I think we all know how stressful it is when you have a problem and you have to ring the body you are having a problem with, and it goes on for months and months and months. It just builds up, and people get very intransigent as a result. It is far better to deal with that in a quicker process.

Several of those schemes today have changed. The armed forces scheme, for example, has a one-stage process and not two. Many other schemes have done that as a result of me pushing to reduce this timescale for the resolution of the complaint. Just very quickly, those are the changes that I brought in.

I also wrote to the Pensions Minister within a couple of months of me being in post, requesting that the TPAS resolution team be transferred to me so that we did not have this dual process. It is simpler for the public. The 2014 triennial review, which was the previous review before the tailored review in 2019, said that a priority was to simplify the customer journey. The customer journey is still a little bit of a mess. It was a worse mess then, because you had three bodies dealing with pensions. You had the Pensions Advisory Service, you had the Pensions Ombudsman and you had the Financial Ombudsman Service. It was a really complicated scenario for a member of the public or anyone to get a resolution of a complaint dealing with pensions, which is such an important saving for those individuals and such a concern when it is going wrong.

I wanted to try to simplify the process, or at least part of it, by bringing in the TPAS team. That was agreed by Richard Harrington, the Minister at the time, and in 2018 it transferred to my office. I then had to set up a new process to accommodate that, but what I wanted to do was not to change it all as soon as they arrived, because if I had done that, I would not have had time to work out how it was working and the best way to do it.

I did it in two stages. The first stage in 2018 was to have a first contact centre where all the inquiries came in and very simple issues could be dealt with there and then. It then went through a jurisdiction process to see if it



was within our timescales, and whether it was something we should investigate or someone else. It would then go either to the early resolution team, which is the old TPAS team, or to my adjudication team. That was the way I set it up in 2018.

I have just gone through the second phase, because there was a problem with that. I was very happy with the way we dealt with that because it allowed the TPAS team just to move across and carry on as they were and relax in the new environment. The second phase, which is the phase we have just implemented, was really important, though, because we were triaging in several places, and that is not a good use of resources. We were triaging when the complaint came in, triaging in the jurisdiction process and triaging by the early resolution team having their complaints coming straight to them and others going to the adjudication team. I hope this is not too complicated.

**Q6** **Chris Stephens:** No, it is not too complicated. Essentially, what you are suggesting to the Committee is that one of the improvements that your successor is going to take on is simplification of processes and handling complaints.

Looking at your corporate plan, you have placed a strong emphasis on people development. Developing internal candidates for promotion and potentially looking at internal candidates to take over your role—has that been a priority for you?

**Anthony Arter:** It is a priority, because one thing that is a shame about the size of my organisation is that it is quite limited in the opportunities you can give. Looking at this second phase of reorganisation, we have tried to work out ways in which people can get training in different parts of our business, whether it be in the first contact team, the jurisdiction team—or assessment, as it now is—or adjudication, and we have offered that opportunity.

Also, we have created team leaders in a sort of mini-hierarchy, if you like—I do not like the word “hierarchy”, because I believe everyone has an important part to play in the organisation—of different levels in which those individuals can get experience in some management issues. We have also found that some people do not want to deal with management—I do not blame them—but they want to deal with the technical side. We have offered different layers for technical expertise and they can progress as a result, but it is limited because we are only a small organisation.

**Q7** **Chris Stephens:** I sense that one of the challenges your successor may have is ensuring that that career ladder—if I can use that phrase—is in place to enable people to progress.

Looking back, I recall that you came to the Committee before, and you said that one of the most challenging questions in your interview was whether it would be correct for a white male to be put forward as the Pensions Ombudsman. Looking at your people development, when your position is up for people to apply for, do you expect that there will be a diverse range



of candidates for your post?

**Anthony Arter:** I really hope there will be. One of the things I really enjoyed in joining the ombudsman service was the complete diversity. It is one of the most diverse groups of people that I have ever worked in. We have all nationalities and all religions. It is just lovely, and they all work so well together. It is a really good example of how people from different backgrounds can work successfully together as a group. I have to say—I have said it to the team many times—it is an absolute pleasure working with them. They are dedicated. It does not matter what their religion is, where they come from or anything else, and it offers people opportunity. For me, I would love to see someone else from a different background taking my role. That would be great.

Of course, when I took over—just talking about male/female—I had three female directors and me as the male. I think that was unfair. I think there should have been a better balance, personally. No, seriously; I think it is important to give people opportunity at senior level. I really, really do. It is about the best person for the job—that is important—but give people opportunities to progress.

Q8 **Chris Stephens:** Thanks, Mr Arter. If you could pass on to the Committee the actual statistics in terms of the diversification of the workforce, I think that would be good for us and perhaps a good model for others to adopt. Thank you for your answer.

Looking ahead at the current period, there have been challenges for all of us in how we operate around Covid-19. Can you tell us what challenges Covid has brought to the organisation, but also if there are any changes that have been put in place that you think perhaps should become the new norm in terms of how we conduct our business?

**Anthony Arter:** We were very fortunate. I would like to say it was planning, but it was very fortunate that in 2018, when we moved to the new building from our old one, we did not really have sufficient desks for the number of staff. We made the decision to work agilely. It was not just a question of space; it was also a question of giving people opportunities—for example, women with young children, carers or others. It was really important that we changed the whole process, so we called it “agile working”. We gave everyone the equipment in 2018 so that they could work remotely.

It is important, though, in doing that to recognise that a lot of our young members perhaps do not have the facilities, or they do not have a room in which they can take a call such as this. They are working in one room, they are sharing a house, they are working on their bed with a laptop on their lap—that sort of thing. We have to bear in mind that not everyone has the opportunity to work remotely in that way. They could go to the library, if there is one still open, or they could go somewhere else, but we have to take into account that perhaps the office is the only place they can work. When I say “agilely”, it was the employees’ choice whether they came in



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five days a week or whether they worked at home or worked in some other environment away from the office. The only rule was that they have to come into the office two days minimum a week. That was the rule. Three days they could work somewhere else. Also, there are no core hours.

I brought that in in 2018. It was a little bit of an experiment. Would our workflow go down? Would people be as committed? It did not, and in fact it helped morale. People really liked it. It did give people with young children and others opportunities to develop their careers and stay in their careers. It was a real success as far as we are concerned.

When Covid hit in March we switched to working five days a week at home instead of three days a week at home. Everyone had the equipment, and that is including our first contact team. We did not have to worry that the only way we could take calls was in the office, as some organisations were really in a difficult position. We were able to switch straight away to our contact team, where they take the initial calls going straight into their own homes.

Because the number of calls went down considerably in that first period, we decided to stop taking new investigations except where they were urgent. We did not know how many of our staff would go sick, we did not know how many of our staff might be really badly affected by this, so we wanted to make sure that the quality of our work continued as it was.

The second thing we also did was to tell the respondents and the complainants—the ones we were dealing with at that time—that there might be delays because, of course, the organisations we were asking for information would not be able to get that information straight away, and also my determinations might not be able to be dealt with within that smaller timescale. The NHS, for example—I deal with NHS complaints. We had to take that into account as well. Although the demand went down in the first couple of months, it is almost back to normal now. We have not been that badly affected.

You ask about what lessons we are learning from this. I still think it is important to have an office where people go to from the point of view of working as a team, exchanging ideas and thoughts, and also for those I mentioned earlier who cannot work at home.

The other aspect that we have made sure of is that our staff are just as important as the customers. It is really important that we look after our staff as well. We have done all sorts of things—*[Inaudible.]* We have had all sorts of competitions and things, an all-team approach to keep the teams together. Bearing in mind that during this whole period we introduced that whole new way of dealing with casework, and we did all that remotely during this period, it has been quite a tough call.

With our staff, we work very hard to understand those who are perhaps vulnerable, those who are being affected mentally because they are isolated. For a lot of people, their work is their life. They do not have a big



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cohort of friends or anything else outside of their office. It is very important to understand that and look at it from each individual perspective and make sure that we have a buddy and team approach right across the office to support those who might be suffering much more than others.

**Chris Stephens:** Thanks, Mr Arter.

Q9 **Debbie Abrahams:** Good morning, Mr Arter. My question follows on from Chris's in relation to Covid. I wonder if you have had a chance to think about the type of pensions issues that we will be facing post-Covid as we enter the recovery, and what the implications are in terms of your workload, the demands of your staff and so on.

**Anthony Arter:** Yes, indeed. I am Chair of the Ombudsman Association, and I had a meeting about a month ago with other public sector ombudsmen. Everyone is agreed that public sector ombudsmen will be inundated with complaints as a result of Covid. I do not think pensions will be any exception to that.

If you look at the financial strain that people are going to be suffering and they have a pot of money in their pension schemes, the big concern is the fraudsters coming in to say, "We can help you get that money". If you take perhaps people under 55, those fraudsters will be saying, "We can help you release that money", and of course they cannot. I can see that happening. I can see an increase, not straight away—these things are always a delayed action—and we probably will not see those complaints coming through for maybe 12 months. Maybe my successor will have that. It may be less; I do not know. There is no increase right at this moment, but I think that will happen.

I think also there will be a lot of small organisations who will turn around to their employees—this is one for the regulator, of course—and try to encourage them to opt out of auto-enrolment. That is a regulatory matter. I also think there will be those employers who will take the money, the contributions—I am already seeing a small increase in those anyway from small organisations where they are really hard-hit financially because of this—and not pay them across into the pension scheme. I am convinced that will happen, almost certainly.

Then there will be others who will be perhaps affected by illness or whatever because of all of this, who will make ill health pension claims. They will increase. Undoubtedly, there will be an increase in the number of complaints.

Q10 **Sir Desmond Swayne:** [*Inaudible*—a number of issues and then singularly fails to bite the bullet, telling you only to continue to build your relationship with the Financial Ombudsman. Why not just amalgamate the two? Comrade, justify your continued separate existence.

**Anthony Arter:** I think a bit of history is worth just going through here. The two bodies are very different. The Financial Ombudsman Service decides a case on "fair and reasonable", a subjective decision made by the



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particular ombudsman or the investigator. All my determinations and decisions made are judicial decisions. That is quite important, and I think Parliament made the right decision when it brought that in, because pensions are such an important saving for individuals. Also, the decisions made can be so costly.

I will just mention one I made a couple of months ago, Thales. Thales was an RPI-CPI case—a Retail Prices Index, Consumer Prices Index case—where I decided that the company should be paying Retail Prices Index increases. It cost Thales £20 million, that decision, but the members had lost £20 million overall if you look at it the other way around. They appealed, and the appeal was dismissed. That decision had to be a judicial decision, when you think about it. It cannot be just a subjective “fair and reasonable” when you are deciding that a company is going to pay £20 million in compensation. They have to have the right to challenge that. Parliament was right that in cases of pensions, and in cases of individuals as well, it is important that the decision is legally and judicially based, and not just based on someone’s subjective thoughts on the matter.

Also, the Financial Ombudsman Service is limited in the amount of money it can award. I might be wrong on this, and I cannot remember if the amount has been increased. I think it is £350,000, but I could be wrong on that. It does not sound right to me, so do not hold me to that. It is limited in the amount that it can award. I am unlimited. I bind both parties, both the respondent and the complainant. The only way that can be changed is by appeal to the High Court or the Court of Appeal in Northern Ireland, or the Court of Session in Scotland. That is the only way in which that can be changed.

It is a fundamental difference in approach. To merge the two, you would have to decide whether pensions are now going to be dealt with right across the board—that is all the public sector schemes, all these big schemes—on a subjective basis, or you are going to say to the Financial Ombudsman Service, “Everything is judicially based”. That is a big decision. They did try to merge the two, going back to something like 2014 or 2013, and it failed because there was no saving and it was too complex in terms of the different jurisdictions and different bases for the two bodies.

I do not agree with that, but what I do think should be thought through—and I thought it through right from when I took over, and of course the 2014 triennial evaluation hinted at this anyway—is that when the Financial Services and Markets Act 2000 brought in the power for the Financial Ombudsman Service to look at pension complaints, shortly after that there was a memorandum of understanding agreed between the two bodies. If the complaint dealt with an administrative issue or some problem after the personal pension scheme had been set up—do not forget it can only look at personal pensions, not occupational pensions—then it would be dealt with by the Pensions Ombudsman. If it were to do with the marketing or the financial advice given, then naturally it would be dealt with by the Financial Ombudsman Service. That was a very sensible memorandum of



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understanding. It meant that the public then could be told on both websites, respectively FOS and my website, and it clearly stated where one should go for the particular type of complaint. It made it simpler for the public.

Unfortunately, the Financial Ombudsman Service decided that under its rules it could not split it, so it then drafted a new memorandum of understanding—which I debated and negotiated for a long time and eventually signed in 2017, not very happily—which meant that there was no separation and that the Financial Ombudsman Service could take any complaint, so now you have this overlap. Now you have a situation where the same complaint can be decided either on a subjective basis or on a judicial basis, and it could be a different outcome. That is very confusing and not very satisfactory.

The one plus from that negotiation and discussion at the time, in 2016-17, was that the FCA agreed to signpost to my service as well as to the Financial Ombudsman Service. I do not think it is satisfactory, personally. I do think it is something that should be addressed. We have tried to address it since then, as you know—since the tailored review—in that I have had meetings with the chief executive and so has my interim chair, Caroline Rookes, and we have also set up a number of groups at different levels to try to work much more closely together on this. Nevertheless, it is a different approach to dealing with the same complaint.

**Q11 Sir Desmond Swayne:** The limit is £350,000, so you are quite right. You directed 108 cases to the Financial Ombudsman Service last year. How many did it redirect to you—ballpark? Is it of the same order, or are you doing more than it?

**Anthony Arter:** No, far fewer. I think it was something like 50 cases.

**Q12 Sir Desmond Swayne:** The review also said that the majority of pension scheme members have little idea that there is an ombudsman to help, let alone two, and, therefore, rely on pension providers to guide them. Is that fair? Is that a fair criticism?

**Anthony Arter:** I do not think it is really that fair, because there is, of course, a lot of signposting. There is signposting with every scheme. If someone has an issue, it is in their pension booklets for a start, but of course a lot of people do not look at those booklets. It is in the booklets. It also should be in the reports issued by the various pension schemes. In addition to that, as soon as they complain to the particular scheme that they belong to, if it is an occupational scheme, they will be told that they can make a complaint to my office. If it is a personal pension scheme, they are directed to report it to the FCA, or they can report it to the FCA. They must report to the FCA if they are going to complain to any ombudsman, but they can also report to my office as well. There is the signposting there.

In addition, of course, they would only have to google. Our finances are limited; we cannot have a massive advertising campaign. We are clearly



on Google and the websites, and they can find us. Once they find us, they can find the information. The schemes signpost. We signpost online. In a way, today, it should not be too difficult for someone to work out that they can go to one or other or both ombudsmen.

By the way, I should say that if they go to me and I start the investigation, they cannot then go to the Financial Ombudsman Service. It will refuse to take the complaint, and vice versa.

**Q13 Sir Desmond Swayne:** One of the recommendations of the tailored review is that the Department for Work and Pensions should provide “greater support and challenge” to you. Do you want it breathing down your neck? What is in it for you?

**Anthony Arter:** I do believe in building a good relationship with everyone, so when I took over, I had meetings at all levels of DWP regularly. It knows exactly what I am thinking, what I am doing and everything else. I think that relationship is very important, the same as it is with the stakeholders and with the other pension bodies. I have meetings with all these different individuals.

With the DWP we have quarterly meetings where the budget is examined. Perhaps if there are any special projects, they will be reviewed—our KPIs and whether we are meeting those, and we will talk through. That is already happening, in terms of—not breathing down my neck—the exchange of views and ideas.

On top of that, the Department also seconded someone to me a while back who was very useful in terms of looking at our MI and working out how we could, with our limited resources, get much more information out of our systems. That was very useful. I did ask for another secondment, but the problem for DWP at the present time is that, with Covid, it has had to move a lot of people across to deal with benefits and other issues, so there is a strain on its resources at the present time. As soon as it is able to, there will then be extra resource, should I require it.

**Sir Desmond Swayne:** Thank you.

**Q14 Steve McCabe:** Good morning. I want to ask about the level of liaison with the Money and Pensions Service. I notice it is in your corporate plan as something that you describe as a “key deliverable”. What exactly does liaising with the Money and Pensions Service involve?

**Anthony Arter:** This is very important. As soon as it was established, I met with Sir Hector Sants, the chair. Since Caroline Siarkiewicz was appointed, I have had meetings with her as well. We realise the importance of that relationship because it will get information, perhaps on scams and other issues that are affecting its members in relation to pensions, and it is very important that it knows exactly how we are operating—Norton is a good example, of course—and the way we might approach something. Also, it is about making sure that there is the right advice and—we talked



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earlier about signposting—that signposting is on its agenda as well. If something needs to be signposted to me, it will signpost it to me.

In addition, for my first contact team, if it is a general inquiry regarding pensions, it should be redirected to MAPS to deal with unless it is something we can deal with very quickly. We do not want to put someone through another call unnecessarily. We will deal with some things straight away, but other things that are more complicated we will put through to MAPS.

I think it is a really, really important relationship for us. I have an ex-MAPS employee who has a lot of contacts within MAPS, and he is regularly in contact with them as well. At various levels we are talking to each other to see how we can help each other in terms of making sure people are properly informed regarding their pension benefits and what they should do if they have an issue.

**Q15 Steve McCabe:** Thank you. In terms of pension freedoms, one of the biggest worries is the lack of guidance, and the fact that people make bad decisions or find themselves subjected to scams. Is there going to be any difference in terms of guidance with your relationship with the Money and Pensions Service, as opposed to your previous relationship with Pension Wise and the Money Advice Service?

**Anthony Arter:** The Money and Pensions Service is, as you know, a merger of those groups anyway, and it is still operating under those names for the time being as well. My relationship before, in the main, was through TPAS—the Pensions Advisory Service—and Michelle Cracknell, the chief executive there. I worked very closely with her on the advice that was given, really more so than Pension Wise, because it was very convenient. We were in the same building at the time, so it was very straightforward to do. I work very closely, and my team works closely, with it to make sure that those over 55—again, that is going to be a very vulnerable group in terms of scammers and others trying to get hold of the money that they can take from these schemes. It is a big concern. That is part of the relationship with MAPS now, to make sure that people are made aware that if you draw down all your money from your pension scheme and it disappears, that is it. Your lifetime savings have gone. It is very frightening and very worrying if people are not given the right advice. It is not my area. The advice for that is from MAPS. We are working very closely with it to make sure that we can do what we can.

**Steve McCabe:** Thank you.

**Q16 Shaun Bailey:** I just want to look a little bit at the merger of the dispute resolution work that The Pensions Advisory Service used to do with the ombudsman. I was just wondering what changes you have noticed with the merger of that work, and overall what you think the measure of success of that merger is or has been.

**Anthony Arter:** I touched on this earlier on when I mentioned that it was part of the Pensions Advisory Service. The problem with it was that being two different entities, and not working as one team, tended to mean that



cases that could have been transferred at a much earlier stage—perhaps they could not be resolved initially, needed an investigation or needed to come to me for a proper determination—were delayed considerably. By moving that team across—although when I first moved it across I left it as it was, so it operated as it was, while working together with the rest of the team, bearing in mind we are not in a large office—working together with the adjudicators and others, cases were transferred much more simply and easily. Not going through two systems of filing, not going through two different systems of approach and with the regular team catch-ups and everything else, cases were transferred in a much shorter space of time.

It also gave us an opportunity—this is very important, because the pensions industry has worried about the completely different approaches taken by the early resolution team and the Pensions Ombudsman service. One of the issues mentioned in the tailored review is: is there a clear demarcation? That is what we put in place. We have one triage, and it is decided at that point that this is an early resolution case. For example, it is not a question of that coming into the TPAS office and them trying to deal with it. Now the decision is made right at the off: “Yes, this is definitely one for ERT” or, “No, this is definitely one that should go for adjudication or some other process, or perhaps straight through for a determination, where it is obviously going to be contentious or there might be an appeal.” Those decisions are made in one place. Before, they were made by the TPAS team and then separately in different cases. It might come back to TPAS because now it can, whereas before it would not. In the past, it would not have gone from my office back to the early resolution team in TPAS. It would have stayed in one body or the other. Now that is a much, much more fluid system and approach. As a result, it is much better for the customer and much more efficient.

I would say that there were no worries about the team coming across. A lot of people thought there might be a problem. Bearing in mind our 217 volunteers—we are the first ombudsman service ever to have volunteers—that was also a big challenge, or it could have been a big challenge, but it has gone really well. The volunteers stayed on board and have just become part of the team, which is brilliant. That, for me, was very, very important. That saves a lot of resource when you think about it.

Not only does it save resource, it also—*[Inaudible]*—to the pensions industry about the type of approach when you are dealing with pension disputes, and also vice versa. Part of what the tailored review suggested was that we should have a strategy to deal with our volunteers—we were doing that anyway—which we are implementing, in terms of using their expertise to help our adjudicators in different ways. Where, for example, actuarial advice plays a part in a particular issue, those volunteers are very important for that because we have actuaries, lawyers and all sorts of people among the volunteers. Does that help, Shaun?

**Q17 Shaun Bailey:** That is a really comprehensive answer. I want to ask one more thing, if I may, Chair, about headline figures. Some of the data I



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have seen suggest that, on the whole, the cases that have been dealt with, managed and processed have been relatively steady, and your process times for dealing with—adjudicating on—issues have reduced slightly as well. If we go back to the point about measuring success, would you say that an increase in the volume of cases that you produce combined with a reduction in timeframes would be the ultimate goal for the organisation?

**Anthony Arter:** What is important for me is to make sure that, first, we get the value for money. We have limited resource. We have an increase, as you have just pointed out, in workflow coming in all the time—across all the workflows, I think it is 13% in the last year alone, and parts of it were considerably more than that. For me, it is all about—that is why this second phase was really important—maximising the resource we have, so that it does not result in a delay in that process and we do not end up with backlogs building again and cases not being dealt with. Yes, that is the measure of success.

What is most important of all is the quality of the advice given, and that the outcome is the right outcome. That cannot be missed. It is really important that you do not speed up the process only to have a poor result at the outcome.

**Shaun Bailey:** That is great; thank you.

Q18 **Debbie Abrahams:** Mr Arter, there seems to be a thread running through this that there are a number of different regulators and a number of different advisory services. As one of the regulators, do you feel that individually or collectively you have the powers to give justice to people who are duped through fraud, or who have an employer who does not invest their money into their pension? Do you have all the requisite powers to get justice for them?

**Anthony Arter:** I want to just correct you. I am not a regulator. The FCA and the Pensions Regulator regulate on the basis of the regulations—*[Inaudible.]* I report the respondent to the regulator if, for example, they have not paid the contributions for auto-enrolment. I will direct that those be repaid with interest, possibly, or if they have lost investment or whatever. I will recompense the member through my directions, but I will report the respondent to the regulator for the regulator to decide whether it is going to fine or take other action against the individual. There is a difference between the ombudsman service dealing with a dispute and a complaint, and the regulatory matters that are dealt with by the Pensions Regulator and the FCA.

It is complicated in that we have two regulators, as you know, and there is a division on different types of regulations and how they interplay. They work very closely together. There is a difference. There is a problem, as I highlighted earlier, in the overlap between the different ombudsman services and the different approaches taken to those.

I have already hinted earlier that I would have liked the ombudsman side, the dispute side, to be much clearer for the public. I do think it is a muddle



for the public. It is a shame. I realise that these things cannot be dealt with overnight and they cannot be changed very easily, but I do think there is an issue there.

**Q19 Debbie Abrahams:** Very briefly, does it make it more difficult for you to do your job and dispense justice because of that lack of clarity?

**Anthony Arter:** I have considerable power, I have to say. I have to act within the law, which is right. At the moment there are things that I would like changed to be able to take action in some other cases, but on the whole, I have more power than any other ombudsman, because the awards I make are unlimited. That is important. Also, I bind both parties. No other ombudsman in the UK binds both parties. Parliament did give me considerable power.

The only other ombudsman service that I am aware of that has the same powers is in Ireland; the Financial Ombudsman in Ireland has the same powers as me. I have a lot of power.

**Q20 Dr Ben Spencer:** I would like to ask a few questions about customer experience, and I use the words “customer experience” because it is the term that is used in your corporate strategy to describe people who come to you with issues that need resolution. What do people think of your service? What do your customers make of the service once they have gone through the process?

**Anthony Arter:** We are just about to change the way in which we measure this. It has not been very well measured in the past. What we are going to do—of course, it is all resource. We have changed our website for a start. The website changed on 28 May, so it is far more user-friendly. The other thing about the service that we are providing is that from August we will have a portal whereby the customer can log in at any point to find exactly where their complaint is in the process and what is happening with it, which is good for the individual customer but also good from our point of view, from a resource point of view.

I think the number of complaints we had was 1% of our service last year. That is pretty low. Complaints often amount to the fact that someone has not got the outcome that they wanted. You would expect that, which is why we have to measure it in a different way. We are going to measure our service in terms of satisfaction from the point of view of: how is the service right the way through—the application, the investigation—and not just at the end? The way it used to be measured was at the end, when someone perhaps had not got the outcome they wanted, and then they would say, “The service was lousy because they didn’t agree with me” or whatever. If they got the outcome, then it was a fantastic service. It is a question of measuring the provision of the service in the right way. I am very keen, now we have our quality assurance team in place, to measure the service we are providing at each stage, right the way through that process.



I also set up a consumer forum. That consists of people like Which?, the unions and others in order to input into the service they believe we are providing, to make sure that if they see issues, we address them. That, for me, was just as important as the key stakeholders, if you like—the big schemes and so forth—because it is a way of capturing the customer right across the board. We are impartial, and we want to make sure that we are providing that service for all sides.

**Q21 Dr Ben Spencer:** Do you have any historical data about how things were prior to implementing this, and how quickly do you anticipate the changes being brought in so that you can act on what you are getting?

**Anthony Arter:** The changes we are bringing in this financial year—the satisfaction was around 60%. It is not high enough, and I think that is because we measured it at the end, when people got their results, and that is why we are changing the process.

**Q22 Dr Ben Spencer:** Do you think it is easy for people to navigate the system? I have to say my head is hurting a bit understanding how you even get to the point where you start to raise an issue with the ombudsman, in terms of the tensions between which one to go to and how to process it. Once, someone is registered with you, let's say, how easy do you think it is for somebody to navigate going through that?

**Anthony Arter:** Part of the reorganisation that we have now implemented is to have some people within my organisation to help—if someone is suffering from a disability or language issue, or there is some way in which they cannot understand what is going on, those people will personally help them through that process. I think that is really important, because even for the ordinary person without any issues at all, pensions are really complicated.

The introduction to the process is now made much simpler on the new website. I do not know if you have looked at the new website yet. It has been up and running since 28 May. The online application—again, this is all part and parcel of our latest digitalisation programme—will be intelligent, so it will take the person through an application.

You talk about the process, and it is complicated. This is why I wanted the public sector schemes and other schemes to go through a one-stage complaint process, so it is a much simpler process, rather than going through several stages and several different ways of going through a complaint. That is time-consuming and unnecessary, because there are so many appeal processes.

I absolutely agree that we have to try to make it as simple as possible, and that is what I have attempted to do with the resources I have. Hopefully, with this new approach this year, it will be much simpler. It is absolutely key, and it will be key for my successor as well, to constantly look at ways in which we can simplify the process for individuals who have a pensions problem.



**Dr Ben Spencer:** Thank you.

Q23 **Nigel Mills:** I think, Mr Arter, you said your complaints were up by around 30% on last year. Could you just talk us through what the trends are? What areas have increased that you are seeing?

**Anthony Arter:** Transfers are now the top percentage—23.6%.

Q24 **Chair:** Can I just interject? Was it 13% increase or 30% increase since last year?

**Anthony Arter:** Overall it was 13%—13% across all workflows. If you take inquiries, for example, inquiries alone have gone up 41%. Early resolution cases have gone up 23%. Some areas have gone up considerably from other areas. Overall, all workflow—13%.

Q25 **Nigel Mills:** Do you feel you have the powers that you need to get the complaints resolved? Do you at times feel as though you can find in favour of the complainant, but no real action happens after that?

**Anthony Arter:** Under the present system, if there is no reaction and no one takes any action on it, then of course, as I mentioned earlier, the person can go to the county court for my determination to be enforced, and that will be enforced. There is no doubt about it. There is no appeal from that. It will be enforced.

It is complicated looking at different types of investigation. If you take an ill health case where discretion is being exercised by the trustees, or a death benefit case where they have used their discretion to pay certain individuals, I cannot interfere with that discretion unless it is perverse. In a case like that, I would normally send it back to the trustees or the pension body if it is public sector, to consider their decision and the reasons why I am directing them to reconsider their decision.

If it then comes back again and they have not taken into account what I have said, I can make my own decision on that matter, but it is quite prolonged. It is quite a long process. I would usually hold an oral hearing in that case to give the trustees or the body the chance to explain why they have not changed it—that is a proper judicial process—before I finally make a decision in place of the trustees. I have done that, but it is a longer process.

Q26 **Nigel Mills:** You are not asking the Department to give you new or different powers? You do not sit there frustrated that you cannot resolve certain things that you would like to be able to?

**Anthony Arter:** I would like to take a complaint from an employer, for example, where they have problems with the administrator, but at present the complaint has to come through a member, not an employer. If you take auto-enrolment as another example, where they might have problems with the scheme, with the providers for the auto-enrolment or with the administrators, it would be quite nice to be able to take a complaint from



the employer on behalf of the members that this is not operating properly. There is an example.

**Q27 Nigel Mills:** That would seem to make sense, because you would have the problem of members not being that engaged, so they probably would not know there was a problem. It is probably not too hard to tee up one member to complain if you are really worried about it.

I think you talked earlier about how you liaise well with all the other relevant bodies. Do you try to spot trends and emerging problems and try to feed them on so they can get a system-wide resolution, or is that not part of your role?

**Anthony Arter:** We do talk about trends. I also talk a lot about auto-enrolment, and between my office and the regulator we have set up a group to watch what is happening with auto-enrolment, so it can feed its information and intelligence in, and I can as well, to make sure we are keeping on top of that. That is really important.

**Q28 Nigel Mills:** I think we have talked a fair bit about scams, but what percentage of your work is scam-related? Is that a large part of it?

**Anthony Arter:** It is within the transfers that I mentioned—that 23.6%. It is quite small. Funnily enough, in about 2015-16, it was growing all the time. Then we had the cold calling legislation that came in as a result of one of my determinations, the Hughes case, and it dropped off. That does not mean to say it is not going on, of course. We know it is. It is quite a small percentage of my cases at the present time. It is probably less than 10%.

**Q29 Nigel Mills:** When you see scam cases, do you wish the trustees had had more discretion to refuse the transfer? At some point, the person whose pension it is can make decisions about their own money, but do you think, "How did the trustees not realise there was a problem here?" and perhaps the solution would have been for them to either slow it down or just say, "No, that is a crazy idea. We are not doing it"?

**Anthony Arter:** If you looked over my cases, you would know that I look at this very, very carefully in terms of: have the trustees gone through a proper process? Have they followed the scorpion guidelines? I made a decision after an oral hearing a while back where I upheld the complaint and they had to put the money back into the scheme—the individual back into the scheme—because they had not followed the proper process.

I think the trustees have to be very careful because they have to transfer, as you know, the statutory transfer. There are guidelines on times and everything else, and they go through a proper process. It is one of those areas in which they have to follow very carefully the process. On one hand, you have to say, "Are there freedoms for the individual to do what they want, or is there no freedom? Does the scheme make all the decisions for the individual?" It is that balance between freedom for the individual to make a sensible decision—to be properly warned and go through a process,



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but at the end of the day it is their decision—and the trustee having the power to say, “No, you can’t transfer”? I think that is quite a difficult balance.

What you are saying is, “Can extra time perhaps be given to this?” Maybe that is a halfway house. Maybe that is worth looking at from the point of view of giving further time. Ultimately, do you refuse someone a transfer because you are not happy with it and the trustee makes that decision on behalf of the member, or do you allow the member the freedom to throw their money away, having been warned and everything else and told, “This is very silly”? It is a bit like investing in something where they are going to make 100% in a year or whatever. At the end of the day, do you say to the person, “No, you can’t do that” because you are going to hold their money? There is a balance between freedom, making sure people are properly informed, and the trustees being protected when they are concerned about something. Getting that balance right is very important.

**Q30 Nigel Mills:** Thank you. That is a fair summary.

There is just one further issue. One frustration our constituents have is that I think you have a three-year time limit, so people have to make the complaint to you within three years. Do you have any views on whether three years is the right time or whether you should increase that to allow complainants a bit more time? Things can be quite complex and it can be a while before they realise that something went wrong, and by the time they work out what to do about it, the time has gone away. Any thoughts on whether it should be five years or perhaps longer?

**Anthony Arter:** If they do not realise that something has happened, then the time does not start until they realise. It does not start from the incident occurring, only if it was obvious to them right at the outset. The time does not start to go from there. Because I am a judicial body, I am very much limited to the court’s powers in this respect, especially if it is a matter that can be dealt with, alternatively, by the court.

There was a case that dealt with this, Arjo Wiggins, some years ago. The courts clearly said that my discretion in terms of my time limits cannot be different from that of the courts, because it is exactly the same matter that could be dealt with by a court, and it would be wrong for me to have a different time limit. I do have more flexibility than a court has, however, because if someone, for a very good reason, is not able to take action—say they were ill or they have a mental illness or some other problem—for some reason, I can use my discretion to allow an increase over the three years. I have to be careful how I use that and there have to be very good, justifiable reasons for it, but I do have that power.

It is only a very small percentage that are refused because they are out of time. The point about it is, if the person does not realise that something has happened here, the time does not start until they do. Personally, I am happy with the time limit.



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Q31 **Selaine Saxby:** Good morning, Mr Arter. I want to ask some questions around staffing. In particular, why has there been such a significant increase in staff over the last few years, and do you expect that to continue?

**Anthony Arter:** Yes. It is really, really important to have that increase in staff. We would not have been able to cope with the massive increase in complaints that we have had over this period of time. It has gone from about 40 when I took over to just over 100 at the present time. Inquiries alone have gone up fivefold. The number of investigations has gone up three times that amount.

In addition to that, when I took over, we did not have a quality assurance team. There was no one checking on the quality of the output, the quality of the advice given or the process. We now have that in place. A lot of that increase in staff is not just about adjudicators; it is also about providing the infrastructure that we require for the organisation to make sure that we have the resource to deal with the public and stakeholders, for example, and others, plus the legal team. These are very complicated legal issues, many of which are grey areas of the law, and you need a reasonably sized legal team in order to do that. We have increased the size of our legal team.

For me, it was very important to get that increase. I do not see it increasing at the same rate going forward, unless, of course, we have an absolute avalanche of complaints, and then a decision has to be made by Government about whether to give more resource to make sure those complaints are being dealt with in the right way or whether the service deteriorates, and that is a consequence of the financial situation we are in. That is a decision for Government. I do not anticipate the increase occurring at the same rate unless, of course, the complaints grow exponentially.

Q32 **Selaine Saxby:** Thank you for that. You have mentioned that that was related to the increase in the number of complaints. My next question is: do you think that the previous lack of staff limited the role of the Pensions Ombudsman and what it was able to do, or have you already answered that by saying that because you did not have as many complaints, it did not need as many staff?

**Anthony Arter:** No, I do think it needed more staff. In 2015, I took on some temporary staff to try to deal with that backlog on a temporary basis. It did not have sufficient staff to deal with the workflow. Also, it did not have the infrastructure that I really thought was necessary in order to provide the support. You do not just need adjudicators. You need to have quality control, which I was very insistent on. You need to have good systems in place and people to operate those—IT and other things. You do need more people across the board to run a professional organisation such as the Pensions Ombudsman service. I did think the service was lacking in numbers when I joined, yes.



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Q33 **Selaine Saxby:** Thank you. Have investigation times reduced as a result of having additional staff?

**Anthony Arter:** Absolutely. I think I mentioned before that a case for completion, when I joined, was around 10 months. Now it is 5.3 months for an investigation and 3.9 months for an early resolution.

Q34 **Selaine Saxby:** Fantastic. The tailored review said, "Any organisation should be very proud of landing this breadth of change, while improving core delivery performance and maintaining strong staff survey scores." Have you been sharing your experience with other public bodies?

**Anthony Arter:** Funnily enough, I had a senior leaders' forum meeting at DWP a couple of months back. NEST, for example, immediately said that it really liked the approach we are taking in agile working and wanted to understand how we operated that and how we work it. I am sharing it with other ombudsman bodies as Chair of the Ombudsman Association. Yes, indeed. I think it is important.

Of course, it is slightly different now. Because of Covid, many organisations have had to change their approach and bring in these systems, but we have shared it with others.

**Selaine Saxby:** Thank you.

Q35 **Chair:** Finally, Mr Arter, you have made a number of references to the challenges your successor is likely to face. You have one final year of your term. Do we know at this stage what the process and timescale for appointing your successor is going to be?

**Anthony Arter:** I have not been told, no. I have assumed it will probably be many months before the actual date, 31 July next year. As we know, it is a long process. I would have thought the whole process would be later on this year—the autumn, maybe.

Q36 **Chair:** That it would begin, yes?

**Anthony Arter:** That would be my guess.

**Chair:** Fine. Thank you very much. That brings our questions to an end. Thank you very much for giving us such clear and full answers to all of those questions, and we wish you well for your work in the year and a bit that remains. Thank you, everybody.