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OPAS (the Pensions Advisory Service) helps people who have problems with company pensions or personal pensions. The service is free and is provided by a nationwide network of unpaid volunteer advisers, supported by a technical and administrative staff based in London.

All our advisers are experienced pension professionals acting in accordance with the OPAS Code of Practice.

OPAS is an independent organisation, grant-aided by the Occupational Pensions Regulatory Authority (OPRA)

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Chairman's Foreword

It goes without saying that I was delighted with my appointment as Chairman of OPAS which took effect from the beginning of this notable year. Notable, in that it is the start of the new millennium and, of greater relevance to OPAS, it is also a year in which the Government has launched an initiative to encourage more people to undertake voluntary activities.

In my new role with OPAS I have a hard act to follow and I am glad of this opportunity to pay a well-earned tribute to my predecessor, John Cunliffe. John worked tirelessly for the organisation and did much to ensure that we were preparing ourselves for the challenges of the new century. He has high professional standards, and during his time as Chairman he made great efforts to ensure that those same high standards would be reflected in all that OPAS did. John has agreed to remain on Council, where I am sure he will continue to make a significant contribution to the success of our service. We remain in his debt.

We live in changing times. The challenge which confronts us, therefore, is to ensure that OPAS adapts to cope with these changes. The role of OPAS is broadening; where once we concentrated solely on occupational pensions, we now embrace at least some aspects of the vast majority of pension arrangements. We will inevitably have an involvement with Stakeholder Pensions and will be developing our role in pensions education. I am particularly excited about the changing role of OPAS and the plans that are afoot to meet the changes before us.

Pension provision, as we are all aware, has become exceedingly complex. Solving the problems which arise from this complexity requires good team work within our own organisation and good relationships with other organisations in our field. We have particularly good relationships with the Occupational Pensions Regulatory Authority (OPRA) and the Pensions Ombudsman, and we are developing good links with the Financial Services Authority (FSA). I am also pleased that our traditional links with Citizens Advice Bureaux are being maintained.

I mentioned earlier that the year 2000 is particularly relevant to OPAS. We are essentially a voluntary organisation relying heavily on the services of the voluntary advisers in the field. Our changing role and increasing workload may mean that we have to support our volunteer workforce with more paid staff in the London office. However, we will remain, fundamentally, a voluntary organisation, providing what is acknowledged to be a very low-cost and effective service to the public at large.

This foreword to the Casework Report would not be complete without expressing my sincere thanks to all the advisers, examples of whose sterling work are set out in the following pages. As our workload increases, so does our need for new volunteer advisers. If you are a pensions professional, with a few spare hours which you are prepared to give to solving the problems of your industry then now would be an ideal time for you to contact OPAS with a view to becoming one of our highly valued advisers.

Much of our success is due to the strength of the organisation at 11 Belgrave Road. For this we are deeply indebted to our Chief Executive, Malcolm McLean, who continues to be a tower of strength and an inspiration to the staff who support him so well. My thanks to them all.

With regard to the organisation of OPAS, one of the first changes I recommended after taking office was that the period of office of the Chairman should, in normal circumstances, be limited to two years. Also, the person elected as Deputy Chairman should be considered to be Chairman Elect. Those changes have now been approved and implemented. My congratulations to Anna Edgeworth on her appointment as my deputy and ultimate successor. I now look forward to working with Anna during the slightly reduced period of my chairmanship, throughout which I will do all I can to ensure that OPAS meets the challenges which lie ahead.

Peter W White
Chairman

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Chief Executive's Report

As in previous years, the main purpose of our report is to indicate the range and scope of pension problems we are asked to deal with, and how we respond to them. Some statistical information showing the continuing growth in our workload – and particularly in our Helpline service – is also included.

We have placed rather more emphasis this year on some of the issues and concerns raised in consequence of our casework, with appropriate

examples provided in every instance. In our day-to-day work we see at first hand how pension policies and practices affect the consumer. We are therefore well placed to comment when we believe deficiencies exist or things are simply not working as well as they ought to do.

Our first two examples in the section headed 'Casework – Examples, Issues and Concerns' bring out the problems of delays and what we see as a poor customer service by many pension providers. We also express our disappointment at the delay on the part of the Government in bringing in some long-awaited reforms – on protection for pension rights in bankruptcy, and on regulating the payment of pension contributions in Group Personal Pension cases.

Not for the first time, we refer to the complexity of pension rules and regulations which I strongly believe remain a major barrier to the ordinary citizen's understanding of their pension position. This cannot be emphasized enough. People will always be suspicious of something that perplexes and confuses them and of providers who are incapable of explaining it to them. Improving communications will remain a major issue for the pensions industry so long as the Government seems unable or unwilling to simplify the system as a whole.

Inflexible regulations are another difficulty for both pension providers and consumers. The internal dispute resolution procedure (IDRP) in occupational schemes is too rigid in its application and encourages confrontation and the taking up of entrenched positions. It would probably operate better as a single process than as the currently prescribed two-stage operation.

The Pensions Ombudsman's regulations effectively prohibit him from accepting cases for investigation before they have first been formally processed through the IDRP – even where there have been months or even years of discussion and correspondence between the complainant and the trustees. This leads to what is usually a pointless exercise and simply adds to the bureaucracy. We would all, I think, welcome a change in that respect.

On the other hand, there are some areas where extra regulations would be helpful – in what we have described as 'regulatory black holes'. We have given two separate examples of these in the report. We also highlight what appears to be an unfortunate legislative gap in the arrangements for compensating victims of the personal pensions mis-selling scandal.

Some pension schemes should, we suggest, be more considerate of partners' rights where the couple are not married; employers and trustees might wish to review their present rules and practices. We also raise the possible implications for private pension arrangements of the incorrect information supplied by the DSS about widow's pensions under the State Earnings Related Pension Scheme (SERPS). Finally, we list a few of the OPAS 'success stories' and other cases of general interest.

I believe our case examples make very interesting reading. We can all learn from them, and if those in authority heed the messages and take action on them where necessary, our report will be even more worthwhile. We aim to circulate the report as widely as possible both in the interests of stimulating a constructive debate and in the hope and expectation of receiving a positive response.

Malcolm McLean, OBE
Chief Executive

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Casework - Analysis

General

In the year ending 31 March 2000 we received a total of 32,174 enquiries and complaints.

Although overall this represents a relatively small (less than 4%) increase on the previous year there are some significant changes in the make-up of the workload.

One of the main growth areas yet again is in telephone calls to the London Office Helpline. Further details and analysis are contained in the separate section later in this report.

Our regional casework has also shown a substantial rise – up from 1907 in the preceding year to 2790 in this (a 46% increase). These are cases which we would normally pass on to an adviser in the area in which the complainant lives. The adviser would then contact the scheme authorities to clarify the facts and, when appropriate, pursue the matter on the complainant's behalf. It appears that the new Internal Dispute Resolution Procedure (IDRP), introduced in April 1997 by the Pensions Act, has not significantly reduced the number of unresolved disputes. If anything, as we comment elsewhere in this report, its formality and lack of flexibility may have contributed to an increase.

Another statistic which we have not referred to separately in earlier reports, but which clearly should now be brought to attention, is the number of cases advisers in the field are referring back to the London office for review or continuing action, if they have been unable to resolve matters themselves. In the year ending 31 March 2000, we received 779 of these, compared to only 453 in 1998/99. The reasons for this include the increasing complexity of pension issues, together with other pressures on advisers.

Despite the general increase in workload, the number of cases where we have advised complainants to pursue their grievance with the Pensions Ombudsman has remained fairly static – 251 cases compared with 243 in the previous year. In addition, however, 340 other people chose of their own volition to ask the Ombudsman to investigate the complaint – up from 260 last year. Given our total written caseload of well over 7,000, this still means that we are able to resolve satisfactorily the problems of most people who contact us.

There was a slight increase in the number of advisers during the year – from 463 to 478. With the growth in the caseload, we clearly need more, and are continuing to appeal to all pension professionals to consider joining us in the interests of helping the pension consumer in the years ahead.

Types of Enquiries

Company Schemes

AVC's	4.1%
Sex equality and Part-timers	4.6%
Other	6.3%
Leaving service benefits and Transfers	19.6%
Ill health and early retirement	12.1%
Pensions Act 1995 Issues	3.2%
Tracing	12.3%
Entitlement/Membership Conditions	19.7%
Winding-Up, Merger and use of surplus	11.6%
Delays and non-response	6.5%

Personal Pensions

Sales,Marketing,Mis-selling	45.7%
Contract terms	14.8%
Maladministration by provider	11.1%
Unpaid Contributions	3.2%

Termination charges	3.5%
Other	21.7%

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Delays

A recurring problem which permeates so many of the cases we investigate is delay. We are constantly being told by the public (both members of occupational schemes and personal pension plan holders) of the difficulty they experience in obtaining information about their rights and benefits. Our experience suggests that there is a growing problem here – employers, trustees, administrators and insurance companies are all involved. There is a need to put greater emphasis on customer service and to recognise the irritation, distress and inconvenience which poor service can and does create. Members of the public have a right to be treated with courtesy and professionalism at all times. The two cases which follow are stark examples of the problem.

CASE NUMBER 1

Mr A took up new employment in 1989 and understood that he had been entered into the company's money purchase pension scheme. Having received no information about the scheme, Mr A approached the Finance Director in 1991, only to be informed that there had been a problem getting the insurance company to amend the direct debit to include contributions for him. However, the matter was in hand and would be sorted out.

Mr A wrote several more memos, and each time he was assured that the matter was being attended to. Eventually his patience ran out, and in 1993 he took his complaint to the managing director. The MD claimed to be appalled at what was happening and assured Mr A that the issue would get his personal attention. Mr A believed him.

In 1994 the company was placed in receivership and the whole workforce made redundant. Mr A waited in vain to hear from the receivers about his pension rights.

In 1996 Mr A wrote to ask for information about his pension rights. His letter went unanswered. Several written reminders also went unanswered and he gave up, disgusted with the whole saga and vowing never to get involved with company pensions again.

However, in 1998 Mr A's wife read about OPAS in a newspaper article and approached us to see if we could help. The OPAS adviser wrote to the receivers. There was no reply. Several reminders followed but to no avail. Nine months later the OPAS adviser, admitting defeat, referred the case back to the OPAS office, from where a strongly worded letter was dispatched to the chief executive of the national firm of insolvency practitioners that was involved.

Apologies ensued and action was taken. The receivers admitted that the winding-up of the scheme had been completed but that there was no record of any liability for Mr A. They wrote to the insurance company who administered the scheme to see if they had a record of him.

Three months elapsed during which OPAS sent reminders to the receivers who, in turn, sent reminders to the insurance company. Eventually the receivers asked their solicitors to write to the insurance company. This elicited an apology and a promise that the matter was receiving their urgent attention.

Unfortunately they had a strange view of 'urgency', as six weeks later no further action had been taken. OPAS wrote again to the chief

executive, which eventually, after another four weeks, brought a response but still no benefits for Mr A.

The case continues. Mr A has passed retirement age.

COMMENT

It is little wonder that many people have so little faith in pension schemes if the experiences of Mr and Mrs A are common. At every step they were faced with uncaring neglect by the employer (both in its capacity as employer and as trustee), the receivers and the insurance company.

One might suspect that some of the parties deliberately ignored letters in the hope that Mr A would go away. This strategy very nearly succeeded but for Mrs A's initiative.

CASE NUMBER 2

Mr B contacted OPAS because his insurance company would not tell him the whereabouts of funds transferred from an occupational pension scheme into a personal pension four years earlier.

The correspondence started in 1996. Having heard nothing for six months after the transfer had been arranged, Mr B phoned the representative he had dealt with. Three calls went unreturned (the representative was 'unavailable' each time he phoned) so he wrote. This letter elicited a two-line reply stating that the matter had been referred to head office and all future correspondence should be sent there.

Mr B waited three months. Having heard nothing, he wrote to head office. Two months later he received a reply, stating that his funds still could not be traced but that the matter was being investigated and they would be in touch in due course. Nearly a year passed before Mr B decided to write again (having heard nothing). Again he had to wait nearly two months for a response. This time he got an apology for the delay but no details as to what was being done to find his funds.

All went quiet once more. In March 1999 Mr B wrote again. He received an immediate acknowledgement saying his letter had been passed to the customer services department. The department wrote a week later informing him that the matter had been passed to a particular individual.

Mr B did not hear from this individual. Several faxes went unanswered so he wrote to the chief executive on 3 July 1999. On the 9 July 1999 Mr B received a letter from the 'service improvement consultant' apologising for the service he had received to date. He was informed that a full investigation was being conducted and he would be contacted again shortly with a full explanation of the action taken to resolve the matter.

Having heard nothing by 19 August, Mr B wrote again to say he would give them seven days to respond before referring the matter to the Pensions Ombudsman. On 29 August he wrote to the Pensions Ombudsman. His papers were referred to OPAS on 15 September 1999.

The OPAS adviser wrote to the service improvement consultant on 7 October 1999,

8 December 1999 and, by recorded delivery, on 2 February 2000. The letters finally elicited a phone call from the new 'complaints co-ordinator', who was unable to locate any response relating to Mr B's complaint and asked if OPAS could send copies of relevant papers. These were faxed on 8 February 2000 and on the same day Mr B received a letter which, incredibly, contained no apology. Mr B was asked to send a copy of his original complaint letter, and was assured it

would be dealt with as a matter of urgency.

As we go to print, Mr B has heard nothing more.

COMMENT

An appalling catalogue of delays and maladministration. We are helping Mr B prepare his case of complaint to the Ombudsman.

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Legislative Delays

Unfortunately, the Government can also be accused of tardiness in bringing forward and/or implementing necessary legislative changes. Of particular concern to OPAS are its failure to bring into force statutory protection for pensions on bankruptcy and sanctions against employers who do not pay over personal pension contributions to the pension provider. In both these areas, the need for change has for some time been acknowledged, but in neither has the change yet occurred. The following two cases illustrate the effect on members of the public.

CASE NUMBER 3

Mr C was declared bankrupt when his business failed in September 1999. He had a Personal Pension Plan (PPP) into which he was paying contributions which now had to stop. He also had a preserved pension under a former company pension scheme.

Mr C wrote to a national newspaper for advice and was told that in relation to his PPP he needed to contact the plan provider, as some personal plans had built-in protection against the trustee-in-bankruptcy but many did not; he should not worry about his preserved occupational pension as the Pensions Act 1995 contained protection for members of all such schemes. He was advised that if the trustee-in-bankruptcy did not agree with this view he should seek the help of OPAS. Mr C wrote to the insurance company who sold him the PPP and was told that in their opinion, the trustee would be able to take over the plan.

The trustee-in-bankruptcy said he, the trustee, was empowered to take possession of both pensions, and Mr C sought the advice of OPAS. We confirmed the position with regard to the PPP and advised him that he might wish to reach some settlement with the trustee. Otherwise he would not have any access to the assets of the plan, even when discharged from his bankruptcy.

With regard to his occupational pension scheme, OPAS had to inform Mr C that the newspaper had got it wrong. Many occupational schemes had built-in protection in the form of forfeiture clauses. These allowed the trustees to cease payments to a bankrupt if such payments would revert to the trustee-in-bankruptcy. Instead the benefits could be retained in the scheme or reapplied for the benefit of the member's family. After discharge from bankruptcy they could continue to be paid to the scheme member.

However, not all schemes provided such protection. Unfortunately, Mr C's scheme was one of these. The Pensions Act 1995 did indeed contain provisions to protect the rights of bankrupts, but unfortunately these have never been brought into force. We had to confirm to Mr C therefore that he could not prevent the trustee-in-bankruptcy from taking possession of his pension.

COMMENT

The new Welfare Reform and Pensions Act 1999 also contains protection provisions which, it was initially proposed, would be implemented by

regulations in 2001. However, as we go to print, the Government has now decided to bring forward the implementation date to 29 May 2000. We welcome this change, although it does not benefit those who became bankrupt prior to this date.

CASE NUMBER 4

Miss D initially sought the help of OPAS in obtaining details of a transfer value she had repeatedly but unsuccessfully sought from her previous employer's pension scheme.

On checking, OPAS established that the pension arrangement in force was a group personal pension (GPP) arrangement not, as Miss D had believed, a company pension scheme. Under the GPP, all participating employees had their own individual personal pension contract. The employer collected contributions and passed them together with its own agreed contribution, to an insurance company.

OPAS enquiries revealed that for the last four months the employer had not been passing over either his own or the employee's contributions. This was yet another example of the 'regulatory black hole' which OPAS has commented on in the past. Because this was a GPP and not a company scheme, neither OPRA nor the Pensions Ombudsman were able to intervene. OPAS itself has no statutory powers and could only suggest that Miss D should complain to the police on the basis that her employer might be guilty of theft. Fortunately, before that extreme step could be taken, the employer agreed to resume payment of contributions and make good the shortfall with interest. Miss D has still not received details of the transfer value of her benefits but expects to do so shortly.

COMMENT

It was fortunate that the presence of OPAS was sufficient on this occasion to bring the employer to heel. The Welfare Reform and Pensions Act 1999 provides for civil or criminal sanctions against employers, and both OPRA and the Pensions Ombudsman's powers will be extended in this respect. Unfortunately, once again, we have to wait for the necessary legislation to be implemented by regulations (which it is proposed will be effective from April 2001). We can only hope that there will be no major casualties between now and then.

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Complexity

The complexity and sheer extent of pension rules and regulations continue to act as a major barrier to people's understanding of pensions – and in some cases, sadly, their willingness to take them out. Many of the problems seem to stem from the Inland Revenue's obsession with providing a tax regime which is so absolutely watertight that no-one, not even the most ingenious tax consultant, could ever find a way round it.

There has been some progress towards a more benign arrangement in the new Stakeholder Pension proposals but in other respects we appear to be going backwards. A more fundamental overhaul of the system is overdue.

The relaxation rules on taking additional voluntary contributions (AVC) benefits separately from the main occupational pension is a good example of this. While the change is in itself welcome, it is so confounded by terms and conditions that most trustees seem to have chosen not to offer the facility to their members. This can be annoying and frustrating for scheme members, as the following example shows.

CASE NUMBER 5

In October 1999, Mr E was 55 and intended to continue working until he was 65. His youngest daughter was about to go to university, which would cause a considerable strain on the family income. He read in the paper about new measures introduced by the Inland Revenue to allow benefits from his additional voluntary contribution (AVC) scheme to be taken earlier than the benefits under the main occupational scheme even if he remained in employment.

This sounded ideal for Mr E's circumstances. He had planned carefully for his retirement and had built up a large AVC fund (£80,000). He contacted the trustees to find out what he needed to do to take advantage of the new facility. He was told that the trustees were not offering the facility.

Outraged, he contacted OPAS. Our adviser had to confirm that it was the trustees' decision whether to make this option available. She did, however, contact the trustees to find out why they had made their decision.

Their view was that the complexity – and hence the cost – of the Inland Revenue's measures outweighed the potential benefits. They believed few of the scheme's members would have an AVC fund of sufficient size to warrant the only permitted method of drawing AVC benefits early: the income drawdown arrangement, under which members can receive a limited proportion of their funds each year. Also they were not prepared to take the risk that members might unwittingly act against their own long-term interests by drawing too heavily on the fund in early years.

COMMENT

We can understand Mr E's frustration, but it is hard to criticise the trustees when the rules introduced are so complex.

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Communication

OPAS has previously drawn attention to shortcomings across a wide field of pension communications. This is an important area and improvements are essential if difficulties and misunderstandings are to be avoided. We would support a critical review of all communications based on the criteria of the 5 c's – clear, concise, correct, complete, courteous. The example which follows demonstrates a miserable failure on all counts.

CASE NUMBER 6

On retiring after 25 years' service in the public sector, Mrs F started to draw a pension of £12,000 per year in 1993. By September 1999 the pension had risen to £14,500. In October 1999 Mrs F received a letter from the scheme authorities informing her that because of an error in calculating the 'initial award' she had been paid in total to date £5,000 too much. No explanation was given as to exactly how the error had occurred. She was to note, however, that her pension would immediately be reduced to the current level of £13,500 and that repayment of the £5,000 was required by the end of that month (October 1999).

Mrs F was extremely distressed both by the tone and content of the letter, and approached OPAS for help. She said she had no reason to believe her pension had been incorrect when she started to receive it. She had spent the pension she had received since 1993 and did not have the means to pay it back.

After much correspondence, OPAS was able to get the overpayment written off although Mrs F had to accept the lower rate of pension from then on. This went some way to appeasing Mrs F, although she continued to believe she had been badly treated by her pension scheme,

which had had therefore lost all credibility to her.

COMMENT

This was no doubt a difficult situation for all parties, made infinitely worse by the casual, almost contemptuous, way in which Mrs F was informed of the error and asked to repay the money. Better communication would not have solved the problem entirely but would surely have helped.

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Inflexibility

One of the main problems that OPAS has found with the Internal Dispute Resolution Procedure (IDRP) – the prescribed arrangements for handling disputes in company pension schemes – is its formality and apparent lack of flexibility. Parties to a dispute often seem to take entrenched positions and hold back from compromise, afraid that this may be seen as acknowledging the weakness of their case.

Additionally, the regulations of the Pensions Ombudsman prevent him investigating a complaint until it has been fully considered under the IDRP. This adds to the impression of a very inflexible and bureaucratic system.

As the following case shows, disputes are often resolved outside the formal procedure, and in spite of rather than because of it.

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CASE NUMBER 7

Mr G became a member of his company's pension scheme when his employment began on 1 October 1989. At this time he transferred in to the company scheme the benefits he had built up under two earlier schemes.

As a result, Mr G received a written promise from the trustees of the scheme that he would receive an additional 22.5% of his final salary in the form of annual pension, when he eventually retired from the scheme.

Some years later Mr G elected to take early retirement but was dismayed to discover that he had only been granted an extra 17% of his final salary, in respect of the transferred-in benefits.

Mr G pointed out this apparent discrepancy to the trustees, who explained that the earlier quotation was incorrect, and that his correct entitlement all along should have been 17%. They apologised, but stated there was nothing more they could do for him.

Mr G complained to OPAS. Mr G's complaint had not been considered under the scheme's IDRP and our adviser therefore helped him present his complaint under the procedure. The procedure is a two-stage process; however, at both stages the trustees again rejected Mr G's concerns, indicating that as he would receive his correct entitlement, there was nothing further they could do.

OPAS recommended to Mr G that he complain to the Pensions Ombudsman about this matter. We informed the scheme (in accordance with our normal procedure) that we were doing this, and that we would pass copies of all our case papers to the Ombudsman, as soon as we received a request from him for us to do so.

At this point the trustees abruptly changed their minds and stated they would like to arrange a meeting with OPAS to discuss Mr G's case.

During the meeting, the trustees offered to increase the value of Mr G's pension benefit by £1,200 per year (around 3/4 of the pension loss the error had caused).

OPAS relayed this offer to Mr G, who happily accepted.

COMMENT

OPAS often corresponds with schemes on behalf of a complainant without necessarily invoking the scheme's IDR procedure. We are able to act as a mediator between the parties and find that this more flexible approach often gets results. We are prepared to consider a case at any time, provided the complainant has written to the trustees (or other party they are complaining about).

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Regulatory Black Holes

Some pension arrangements still exist where there appears to be no body from whom an aggrieved complainant can gain a cost-free binding judgement on their case.

OPAS believes that situations such as these need to be brought to the attention of the Government with a view to ensuring that all pension scheme members are given equal rights in this respect, and that no-one responsible for maladministration and bad advice should be able to escape the consequences of their actions.

Two such examples which have recently come to light are given below.

CASE NUMBER 8

Miss H had been a member for some years of the NHS Pension Scheme. She then changed her employment to her local university, where she joined their scheme for non-academic staff.

Shortly after joining the scheme she approached the finance department to enquire about transferring over her NHS pension entitlement. She was told that the trustees of the university pension scheme used a firm of outside administrators and consultants who would explain to her what was involved in such a transfer.

A few weeks later Miss H was contacted by a representative of the administrator who arranged to see her on one of his visits to the university. At that meeting he explained that it was his company's policy to recommend that scheme members should not arrange transfers from public sector schemes. He said there would be no advantage to her in doing so.

Just over four years later Miss H was struck down with a progressive and debilitating illness which left her unable to work, with no prospect of recovery. She asked the finance department whether she was eligible for an enhanced ill health pension but was informed that she needed to have had five years' service in the scheme to qualify for such a pension.

Miss H now realised that she would have qualified for an early pension had she transferred her earlier years of service in the NHS scheme. She complained to the representative who had advised her not to make the transfer. He tried to persuade her that his advice was correct. Miss H remained dissatisfied and took her complaint to the representative's manager, who looked into the matter. Having done so, he rejected her complaint and told her she could take her complaint to the Personal

Investment Authority (PIA) Ombudsman.

The PIA Ombudsman rejected her complaint on the grounds that the matter was not within his jurisdiction, as it concerned a transfer between occupational pension schemes, and referred her to OPAS.

OPAS took the matter up with the compliance department of the company that had given the advice, but they refused to accept that their advice had been incorrect. OPAS, however, was convinced from the evidence available that Miss H had a valid complaint, and strongly recommended that she took her case to the Pensions Ombudsman.

On preliminary investigation, the Ombudsman's office noted that the adviser did not work for the company which provided the scheme's administration and consultancy, but for a subsidiary that specialised in financial advice to individuals. Miss H was informed that the Pensions Ombudsman could not investigate her case as such a company did not fall within his jurisdiction either.

Miss H was left with no other recourse against this company than court action. She decided against this because of the cost.

COMMENT

OPAS believes that Miss H was just as much a victim of the system as of poor advice. We would hope that one or other of the Ombudsmen's regulations can be amended to provide for the necessary jurisdiction in such cases.

CASE NUMBER 9

Mr I decided to take out a 'section 32 buy-out policy' with an insurance company in September 1986, after he had compared a quotation of the potential benefits under the policy with those available under his company scheme.

A section 32 buy-out policy is a special type of pension scheme, arranged with an insurance company, into which a transfer value is paid from an occupational scheme but to which no further contributions can be made.

When Mr I reached his retirement age in November 1997 he contacted the insurer, who informed him that the pension available was considerably lower than that quoted on the original estimate. The insurance company admitted that they had made an error in preparing the original quotation, and this was the main reason why Mr I's pension benefits were so much lower. The insurer also found on their files an original letter that should have been sent to Mr I in December 1986 to inform him of the error (which Mr I confirmed he had not received).

Although quotations of the kind issued to Mr I are only estimates, and it is normally unsafe to rely on them, in this situation Mr I argued that he had transferred his benefits on the basis of the original quotation.

The insurance company offered Mr I a one-off compensation payment of £500. Mr I was not happy with this, and asked if we could advise him how he could pursue his case further. We corresponded with the insurers on his behalf, who refused to alter their position.

In similar circumstances, we normally suggest that individuals take their complaint to the Pensions Ombudsman. However, section 32 buy-out policies fall outside the definition of occupational or personal pension schemes under the Pension Schemes Act 1993, and therefore are not covered by the jurisdiction of the Pensions Ombudsman.

The alternative of seeking redress through the Personal Investment

Authority (PIA), who investigate some complaints of maladministration involving personal pension arrangements, would also not be possible in this instance. The PIA has only voluntary jurisdiction in these matters, which means that not all insurance companies are bound by its decisions. Even though the insurance company concerned had since joined the PIA Ombudsman Bureau, it had not been a member when the error was discovered, and it had refused to agree to the PIA's request to allow them to investigate the complaint.

We therefore had to inform Mr I that there was no further body to whom he could refer his complaint (though of course he did retain the option of taking legal action, a complicated and costly exercise).

COMMENT

Another regulatory black hole where legislation may be needed to provide equity.

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Pensions Mis-selling

The review of personal pensions mis-selling has led to many people being compensated by those who wrongly persuaded them to leave, or in some cases not to join, an occupational scheme and take out instead an inferior personal pension. The review covers pensions mis-sold after 29 April 1988 – the date the Financial Services Act 1986 came into effect.

In situations where the advice came from an independent financial adviser (IFA) who subsequently stopped trading, the Investors Compensation Scheme (ICS) can provide compensation for those who would otherwise, through no fault of their own, miss out. Rather surprisingly, however, the ICS can compensate only those mis-sold after 28 August 1988. As the following case shows, this failure to harmonise the effective dates can have serious consequences for anyone unfortunate enough to be caught in the intervening period.

CASE NUMBER 10

Mr J had been a member of his public sector occupational pension scheme for ten years when, at the beginning of August 1988, he was persuaded by an IFA to leave the scheme and take out a personal pension plan instead.

Some nine years later in 1997, now rather belatedly realising his mistake, Mr J asked to rejoin his scheme. Although still employed in the same public sector job, he was at this time unwell and off work. He was told that, in accordance with the rules, members could not rejoin the scheme 'during a period of absence from work for whatever reason, including illness' although it was made clear to him he would be entitled to rejoin later on his return to work.

Unfortunately, and quite unconnected with his illness, Mr J had a heart attack and died before returning to work. The life office administering his personal pension plan refunded his £6,000 contributions but Mrs J and her family remained in difficult financial circumstances. She was informed she could not obtain redress from the financial services company who had sold her late husband the personal pension as it was no longer trading. The adviser involved had also died.

Under slightly different circumstances, compensation for Mrs J would have been provided by the ICS. However, as Mr G had taken out his personal pension plan at the beginning of August 1988, a little over three weeks before the legislation which provided the ICS came into force, she could not make a claim under the scheme.

Like everyone else involved in this case, OPAS was sympathetic to Mrs J's plight, but the rigidity of the rules meant we could not assist.

COMMENT

Mrs J and others who have been caught in what can only be described as the no man's land between the starting dates for the mis-selling review (29 April 1988) and the ICS (29 August 1988) must feel very let down by the system. We can only wonder why the effective dates were not brought into line with each other and whether even now it is too late to do so.

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Partners' Rights

OPAS frequently comes across situations where the pension scheme rules still cling to the traditional concept of a heterosexual partnership based on a contract of marriage, seemingly ignoring the fact that nowadays many stable relationships exist outside this framework. It would be helpful if employers and trustees would at least review their rules and satisfy themselves that they are still appropriate for the needs of the scheme membership as a whole.

CASE NUMBER 11

Mrs K was a 55-year-old widow who had worked in the public sector for 25 years. Her late husband worked in the same sector and had contributed to the pension scheme for 27 years. Since his death in 1991 Mrs K had received a widow's pension.

In March 1999 Mrs K moved in with her new partner and informed the scheme authorities as she was obliged to do. Her widow's pension was stopped as a result.

In the same letter to the scheme authorities she had requested details both of her own prospective benefits and those payable to her new partner. She was told that no benefits would be payable to a co-habitee. Unless she married her partner, therefore, he would receive nothing from the scheme in the event of her death.

Mrs K complained to OPAS. She was understandably frustrated at this apparent double standard – her new partner was taken into account for the purposes of stopping her widow's pension but would not receive any benefit if she died herself. However, we had to tell her that the regulations governing the scheme had been correctly applied, so there was nothing we could do for her in this situation.

COMMENT

It is difficult not to sympathise with the principle put forward by Mrs K. We must assume, however, that the policy underpinning the regulations was deliberate and was designed to exclude people in a similar position to hers from securing benefits under the scheme.

CASE NUMBER 12

Ms L was an employee of a large international company and a member of the company's UK pension scheme. The scheme provided on death a lump sum of four times salary and a spouse's pension of 50% of the pension the member would have received had they survived to normal retirement age.

Ms L died, aged 46, from cancer. Her lump sum was divided in accordance with her wishes, one third to each of her two children from her previous marriage and one third to her female partner with whom

she had been living for eight years.

Just over a year before her death, Ms L and her partner had gone through a marriage service in another European country and Ms L's partner now applied for the spouse's pension as she had been financially dependent on Ms L.

Her claim was rejected, as the scheme's definition of spouse read 'legally married husband or wife'. She applied to OPAS, who explored the possibility with the trustees of a pension payable on the basis of financial dependency.

This suggestion was also rejected by the trustees. They pointed out that they were acting impartially in rejecting claims from all unmarried partners, heterosexual as well as lesbians. They also pointed out that they were applying the same criteria as the Government does in operating the state pension.

COMMENT

Another example of where the rules of the scheme have been accurately applied but do not meet the needs of all the membership.

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Changes to SERPS Widow's Pensions

Rules introduced by the previous government in 1986 to halve the amount of SERPS inherited by surviving spouses were due to come into force from April this year. However, for 10 years between 1987 to 1996 DSS information leaflets did not refer to this change. In addition, some Benefits Agency staff gave wrong information to some people. The Government have now decided to delay the implementation of the changed rules for two-and-a-half years (until October 2002) and have also introduced a protected rights scheme for those people who were misinformed and can demonstrate they acted on the wrong information provided. But as the following case demonstrates, there are wider implications affecting private pension schemes which we feel they should also take into account.

CASE NUMBER 13

Mr M retired in 1995 from a money purchase pension scheme. He arranged his pension such that, on his death, 25% continued to be paid to his wife.

In 1999 he wrote to the scheme trustees to see if it could change his pension so that the amount payable to his wife, on his death, would increase to 50% of his pension. He accepted that if they agreed to this, his pension would decrease.

He explained that when he arranged his pension upon retirement, he had discussed the widow's pension amount with his wife. They had taken account of the widow's pensions from both the Basic State Pension and SERPS. On this basis they had decided that a widow's pension of 25% from his company scheme would be adequate.

However, the whole picture had now changed. He had read of the change in the widow's SERPS entitlement being cut by 50%. Had he known of this in 1995, when he retired, he would have arranged his pension differently. He would have based the level of widow's pension as 50% of his own.

The trustees expressed their sympathy with his dilemma but explained that the rules of the scheme required this decision to be made at the time of retirement and it could not be changed thereafter. Mr M

appealed to OPAS for help.

OPAS checked the rules of the scheme and told Mr M that the trustees were correct in their decision. The trustees had pointed out in their reply to OPAS that there could be many scheme members in the same position as Mr M and it was the Government's responsibility to sort out this problem, not the trustees'.

OPAS copied the trustees' letter to Mr M and agreed with this point of view. We told him that it was the Government's failure to publicise the change in SERPS that had caused his predicament and it was they who should resolve it. We advised him to contact his MP with a view to lodging a complaint with the Parliamentary Ombudsman.

COMMENT

The Government have now responded to this problem and are to be commended on the action they have taken to compensate those who have been wrongly advised by the DSS. However, they need to go further. As the above example shows, there are many people who have been disadvantaged by the Government's failure to publicise the change.

The Government have legislated that members of occupational schemes should be notified of changes to their schemes. The same rules should apply to the Government, as should the penalty for disobeying them.

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Success Stories

When we are involved in a dispute, our overriding aim is to resolve it, preferably to the satisfaction of both the enquirer and the scheme managers. That does not necessarily mean we have to secure an increase in the person's benefits or some change in the current situation. In many instances, we satisfy enquirers simply by being able to confirm that, in our view, they have been properly treated and the correct benefits have been awarded. Frequently, however, we achieve a result which does involve a change in direction by the trustees or scheme managers. The following are just a few of the success stories where the presence of OPAS has clearly made a difference.

CASE NUMBER 14

Mrs N's late husband was a member of his employer's insured pension scheme until his death in October 1992. Under the rules of the scheme, the fund value of £29,761 was then available for the trustee (which was in fact the company itself) to pay as a lump sum at its discretion, or to provide Mrs N with a widow's pension.

Mrs N duly received monthly pension payments at the rate of £397 per month until April 1996, when the payments suddenly stopped. After trying unsuccessfully to rectify the situation herself, Mrs N complained to OPAS in October 1997.

The OPAS adviser discovered that the company had gone into liquidation. It was established that before this, the pension payments Mrs N had received had been paid directly from the managing director's bank account, and no account had been held in the name of the trustee of the scheme (though the company had its own account).

Further enquiries revealed that the cheque for £29,761 (representing the value of the benefits) had been issued by the insurer made payable to the trustees of the scheme. The cheque had, however, been accepted into the company's bank account by its bank.

The company's liquidator advised OPAS that the company had no assets. Our adviser therefore wrote to the bank, arguing that it should not have allowed a cheque payable to the trustees to be paid into the company's account.

After several further exchanges of correspondence with the parties, the bank agreed to make available the full fund value (with interest) to the liquidator (as trustee). The liquidator (having obtained consent from the Revenue) exercised its discretion as the effective trustee of the scheme to pay £38,200 to Mrs N as a lump sum death benefit.

COMMENT

This case illustrates the care and patience that our advisers (and complainants) sometimes need to show in order to resolve a case.

Although the correspondence stretched over two years, and we were aware that the bank would not normally come within the remit of OPAS or the Pensions Ombudsman, we eventually achieved a successful outcome. The attitude of the Customer Services Manager at the bank helped considerably in resolving the problem.

CASE NUMBER 15

In April 1995, two months before his retirement, Mr O received a statement of the options and benefits available to him. He queried the calculation of his pension as the figures quoted were less than he had expected.

The scheme administrators gave him a breakdown of their calculation, including the date on which it was based. But Mr O had earned a substantial bonus in his final year which had not been included in the calculation of his final pensionable salary.

Mr O queried this and was told that only earnings in each of the last three scheme years were taken into account in this calculation. The scheme year ran from 6 April to 5 April but his large bonus was not paid until the end of April 1995 and therefore was not included.

Mr O continued to argue on the grounds that the bonus was earned in respect of the year 6 April 1998 to 5 April 1999 and should therefore count. His arguments were to no avail.

In 1997 Mr O received a notice informing him that the scheme had introduced an internal dispute resolution (IDR) procedure. As he remained dissatisfied with the response he had received in 1995, he lodged his complaint under this process.

The responses under both stages of the procedure upheld the earlier reply given by the scheme administrators. However, he was told of the existence of OPAS and, welcoming the opportunity to get an independent view, he wrote seeking our help.

The scheme's trust deed and rules defined final pensionable salary as 'Gross Earnings in the year prior to Normal Retirement Date or date of leaving service, if earlier'.

An exchange of correspondence took place in which OPAS argued that the definition of 'year' should be the 12 months before to the date of Mr O's retirement. The trustees argued that the year referred to the scheme year. Eventually they had to accept that whatever had been their intention, the wording did not give expression to that meaning.

They agreed to calculate Mr O's pension using his last 12 months' earnings, which included his final bonus. He was then paid the additional backdated payments which, with interest added, amounted to

approximately £50,000.

COMMENT

Although it may have been more convenient for the scheme administrators to base their calculations on the scheme year, this could not be justified by the actual wording of the scheme rules. Where trustees use third party administrators they cannot absolve themselves from ensuring that the administrative practices are in line with the scheme's formal documents.

CASE NUMBER 16

Mr P was a UK national working in Africa for the UK subsidiary of a multinational company. Sadly he fell seriously ill. This coincided with the company reviewing its operations in that country and deciding to make job reductions. Mr P's job was selected for axing and he was made redundant.

By this time, Mr P's condition had been diagnosed as terminal and he was unable to challenge the company's decision. Mrs P was preoccupied with nursing her husband and dealing with two young children. No action was taken for a few months until a close friend e-mailed OPAS for help.

OPAS asked the UK parent company for his options and was told he had a deferred pension. However, in the case of ill health, this could be brought into early payment. As Mr P was close to death, the company said the pension could be commuted to a lump sum.

As the original call for help had indicated that Mrs P was in immediate need of money, OPAS passed on details of the options to her but, at the same time, asked the company why Mr P had not been considered for an ill health early retirement pension rather than redundancy.

Mrs P asked for clarification about aspects of the options quoted but, before she could make a decision, her husband died.

Meantime, OPAS continued to correspond with the company about whether Mr P had been correctly treated. The company acknowledged that redundancy was not the appropriate way for dealing with Mr P's situation and confirmed that other possibilities were being considered.

When pressed as to what these other possibilities were, the company admitted that it had in force an insured long-term sickness scheme that paid an ongoing income for employees who could not continue working. More important for Mr P's case, it meant he could continue to be treated as an active member of the scheme and Mrs P could receive his full death-in-service benefits.

Although not wishing to build up her hopes, OPAS continued to keep Mrs P informed. A delay of two months ensued as the company negotiated with its disability scheme insurers and the insurers of the death-in-service benefits.

Mrs P returned to England on a brief visit to sort out some of her husband's affairs. She contacted OPAS during that visit to ascertain the current position and OPAS made the same enquiry of the company.

OPAS was able to inform Mrs P that her husband would be treated as still being in service at the date of death, and that she would receive an immediate lump sum of £95,000 together with a pension for her for the rest of her life and a pension for each of her children until they reached age 18.

Arrangements were made for Mrs P to receive the money before she

flew home.

COMMENT

This was a case where OPAS's approach, based on conciliation and negotiation, paid handsome dividends for Mrs P. We would not have had such a successful outcome had it not been for the willingness and co-operation of the company and the trustees.

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Cases of Interest

OPAS deals with a range of diverse pension problems. In our line of work, at least, pensions are rarely boring. Three examples of cases of general interest taken from our caseload are provided below.

CASE NUMBER 17

Mr Q and his partner Ms R had lived together as man and wife. Mr Q died and Ms R believed she was entitled to his widow's pension as she considered herself to have been for all practical purposes his wife for the past 25 years.

The trustee informed her that the spouse's pension was only paid to a legally married husband or wife. Ms R consulted OPAS.

The OPAS adviser obtained a copy of the scheme's trust deed and rules. This confirmed the advice of the trustees. However, he did note that there was a rule which allowed the trustees discretion to reassign part of the widow's pension to another dependent.

He asked the trustees if they could, under this rule, assign the whole of the widow's pension to Ms R as a dependent. The trustees responded that this rule would only come into play if there was a widow. There had to be an entitlement to a widow's pension before any reassignment to another party could take place. This entitlement could not exist unless there actually was a widow. According to the trustees, this was not possible as Mr Q was single.

The OPAS adviser had kept Ms R informed about his progress by sending her copies of all his letters and the responses he received. Ms R now replied that Mr Q had once been married but she thought he had been divorced as he had usually referred to himself on forms as being single.

Mr Q had been born in Ireland, and the OPAS adviser undertook an enquiry with the Registrar of Births, Marriages and Deaths in Dublin. This revealed a marriage certificate for Mr Q. A search at the Registrar's office failed to reveal any evidence that Mrs Q had died.

This information was passed on to the trustees who spent several months carrying out enquiries aimed at tracing Mrs Q without success.

Eventually, the trustees were satisfied that despite their extensive enquiries Mrs Q was not going to be found. They therefore awarded the whole widow's pension to Ms R.

COMMENT

It was the OPAS adviser's persistence and investigative skills in establishing the existence of the 'lost widow' which brought this case to a satisfactory conclusion – in line, we must assume, with what would have been the wishes of the late Mr Q.

CASE NUMBER 18

OPAS was contacted by Mrs S who complained about how the trustees had distributed the lump sum payable on her husband's death. The money sum had been split two thirds to his mother and one third to his sister, with nothing payable to Mrs S.

Mrs S explained that her husband had died suddenly. He had previously completed an 'Expression of Wish' form, naming his wife as his only beneficiary. These forms are used to allow pension scheme members to express a preference as to how any benefits payable on their death should be distributed.

Mrs S told us she could think of no reason why the trustees should have totally ignored her late husband's wishes – his mother and sister had no financial dependence on Mr S. Mrs S, however, was financially dependent and, as she was unable to repay the mortgage, it was likely she would have to sell the home that they had occupied since getting married, some 15 years earlier.

OPAS asked the trustees for a copy of the trust deed and rules to establish what procedures the trustees had to follow. Although aware that the trustees did not have to explain the reasons behind their decision, we asked them why they had paid the money in the way that they had.

The secretary to the trustees rang our adviser and explained that Mr S had committed suicide and the trustees had organised the preparation of a full report on the circumstances.

After much consideration, they eventually agreed to release this report to the adviser.

The report contained interviews with Mrs S, Mr S's sister, his mother and a number of his work colleagues. It emerged that Mrs S had told Mr S that she was having an affair with her boss. It had been going on for some considerable time and she wanted a divorce. She had asked Mr S to leave the matrimonial home, which he had done.

Mr S's mother reported that he had come to live with her but she had encouraged him to return to his wife and attempt a reconciliation. Mr S had tried to do this but found that he could no longer gain access to his former home. Attempts to talk to his wife by telephone had been rejected.

Mr S had become increasingly depressed and unable to work. He did, however, visit his workplace to explain to his manager why he was absent. The manager had tried to counsel him and arranged for him to talk to another of his colleagues who was a close friend of Mr S.

That friend, in his interview, recalled that Mr S specifically mentioned that should he die his wife was not to receive any money. The manager also noted in his evidence that Mr S had made a similar remark to him.

Mr S did not return to his mother's home that night. His mother had hoped that this meant that he had returned to his own home to try a reconciliation. Unfortunately, the following day she was informed that his body had been recovered from a nearby canal.

The trustees had also established that there was no outstanding mortgage on Mr R's home, contrary to Mrs S's statement. Mrs S was entitled from the scheme to a substantial monthly pension, payable for life.

We advised Mrs S that we could see no basis on which OPAS could challenge the decision of the trustees. Our adviser informed her of her right to take her case to the Pensions Ombudsman but Mrs S appears to have taken the matter no further.

COMMENT

Trustees have a huge responsibility in ensuring the best exercise of their discretion in the distribution of death benefits. They need the investigative skills of Inspector Morse to find the facts and the wisdom of Solomon to decide, in the light of those facts, a fair and equitable outcome.

CASE NUMBER 19

And finally – the strange case of the missing sausages.

Mr T and Mr U had both been employees for a number of years in a food processing plant. Their particular skills and responsibility lay in the production of high quality sausages containing the finest blend of beef and pork.

Following an audit inspection, an internal enquiry was mounted concerning what the company believed were large stocks of sausages which had not been accounted for over a period of time. Mr T and Mr U were accused of theft and misappropriation of the missing sausages, an accusation they continued to deny. Nonetheless they were eventually dismissed under the company's internal disciplinary procedure as, on the 'balance of probabilities', the company believed the offence had been established.

Following their dismissal, Mr T and Mr U were advised that as part of the restitution required of them their pension funds in the company pension scheme would be forfeited. Mr T and Mr U came to OPAS for help and advice at this stage. On checking the scheme rules, the OPAS adviser established that pension funds could be forfeited in the event of theft or fraud against the company by a scheme member. But the relevant clause – known as a lien clause – clearly required evidence of the offence to exist, either in the form of an admission or a conviction in court.

As neither existed in this case, the lien clause was not effective and the pension funds could not be forfeited unilaterally in this way. When challenged by OPAS, the company and the pension scheme managers had no option but to accept this interpretation and agreed to preserve the pension funds for Mr T and Mr U.

COMMENT

OPAS does not know whether the two men stole the sausages. Our prime responsibility was to enquire objectively what the pension scheme rules would allow, how they had been applied and what could and could not be condoned. As always, our advice to pension scheme authorities and their advisers in such situations would be to ensure they are aware of and understand their own rules before embarking on precipitate action which if challenged is likely to fail.

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The OPAS Pensions Helpline  0845 6012923

"The existence of the Helpline and the availability of the independent OPAS service are becoming more widely known."

"Most of our callers are grateful for the help given and value the expertise and independence available to them."

More and more people approach OPAS for advice and assistance through our national Pensions Helpline. It represents the area of greatest growth in our workload.

Volume

The volume of calls handled this year, 22,157, has grown by 19% over last year. This clearly demonstrates the demand for our service, a demand that shows little sign of abating. Quite the reverse: this trend has continued for the past four years, during which there has been an average growth rate of over 20% per year.

What can we read into these statistics? We think the growth has several causes. The existence of the Helpline and the availability of the independent OPAS service are becoming more widely known. This is not the result of any advertising by OPAS but a greater awareness of the service by financial journalists and broadcasters. The Helpline telephone number is now routinely displayed in newspaper articles and on radio and television programmes. A daytime television programme did a report about millions of pounds lying unclaimed in pension funds. The item ended with an invitation to each viewer to find out if any of this money belonged to them. If they thought so, all they had to do was ring the following number. The number displayed was the OPAS Helpline number. Our phone lines almost melted with the number of calls we got that afternoon. We were still returning calls days later.

Profile

There has been advertising by the FSA on the subject of the pensions mis-selling review. This appears to have had the effect of raising the profile of pensions as a whole, thus inspiring more people to use our service.

While the FSA advertising campaign was running, the number of calls to us increased significantly, subsiding again afterwards. Some of these calls concerned pensions mis-selling issues but most had nothing whatever to do with that subject. In many instances, the advertising merely served to remind people that there was an issue concerning their pension arrangements that they wanted to query or have clarified.

Examples

One example was the case of the man who rang to say that when he retired he felt that his pension had not been correctly calculated. He had intended to query it but was only now getting round to do so. His question was how should he go about this. The OPAS adviser enquired what his age at retirement was and his current age. He had retired at 65. He was now 89. Such was the impact of the FSA's advertising, he was inspired to query this matter after 24 years.

Another reason for the increasing popularity of our Helpline is that people simply like using the phone. Many people want to know if they have the basis of a grievance before making an approach to their employer or the scheme's trustees (who may be one and the same). They are apprehensive about incurring the employer's displeasure and the possible consequences this might have for their job.

A common example of this type of query is the situation where the company has given notice of its intention to replace the existing final salary scheme with a group personal pension. Although it is being promoted as a beneficial change, most employees do not agree with this and want to know if there is anything that can be done to stop it.

Often callers prefer to ring rather than to write because they find it difficult to express their problem or query in writing. This is often due to one of the issues we have highlighted earlier in this report, the complexity of the subject matter involved. This might involve the interpretation of rules or regulations which are often written in language that even lawyers have difficulty with. It is high time that those drafting these documents keep in mind the people for whom pension schemes are designed. The rules must be precise and certain but the language

used should never be incomprehensible.

Sometimes our callers are reacting to news they have just received, where they feel they have suffered an injustice and they simply want to discuss the matter with someone who has the knowledge and expertise to understand their situation.

A typical example of such a caller might be someone who has applied for an ill health early retirement pension and has received a letter from the trustees rejecting their claim. To the caller, the validity of their claim is irresistible, but too often the letter from the trustees fails to give any explanation as to why they have been turned down.

These are among the most difficult calls for the adviser to handle. Often the caller is angry and frustrated and the adviser has to combine patience and human understanding with expert pensions knowledge.

Poor Service

As indicated earlier in our report in connection with written cases, our Helpline also receives a substantial number of complaints about poor service. Often the scheme member seems faced with complacency and indifference. The frequent plea we hear is, 'I have been ringing and writing for months to get information and they keep promising they will provide it but never do.'

Legislation requires trustees to provide someone leaving a scheme with information on their options within two months of being made aware of their withdrawal or their request for information. Unfortunately, we hear from callers who have left a scheme some 18 months to two years previously and have still not received this information, in spite of many attempts to get it.

Many of our callers do not actually have a complaint. They are looking for information or advice. Frequently, we are asked to give advice on which type of AVC to have, what retirement option is best, whether or not to take a transfer and many more.

Information

In cases like this, we try to give the individuals as much information as possible to help them to make whatever decisions they are facing. We stop short of giving actual financial advice as we are not authorised to do so but recommend that they consult an independent financial adviser (IFA). Frequently, callers point out that they do not trust such people and this is why they have come to OPAS instead. Clearly this presents a confidence-building challenge to all IFAs.

"Callers prefer to ring rather than write because they find it difficult to express the problem or query in writing."

"The Helpline receives a substantial number of complaints about poor service. Often the scheme member seems faced with complacency and indifference."

The importance of the OPAS Helpline is clearly growing. It is a valuable facility not only for members of the public but also indirectly for the pensions industry as a whole. We try to provide an expert and independent

source of information and practical advice, but we also act as a useful safety valve for those who feel their scheme or pension provider has let them down in some way. Often we go to great lengths to explain to callers that they have not been the victims of injustice but have in fact been dealt with correctly. The fact that such an assessment is coming

from an organisation that is wholly independent gives greater reassurance.

Occasionally, some of our callers' frustration and anger expresses itself in aggression and verbal abuse, but such incidents are rare when compared with the expressions of satisfaction we receive. Most of our callers are grateful for the help given and value the expertise and independence available to them.

Future demands

The success of the OPAS Helpline has been noted by a number of influential bodies within and outside the pensions industry. We are delighted that the independence and professionalism of our service is being recognised in this way. We are aware that further demands on us are around the corner, not least the many enquiries we envisage being generated by the launch of the Government's new Stakeholder Pensions. We are currently talking to the Department of Social Security about the best ways of dealing with these in the months ahead.

"Further demands are around the corner, not least the many enquiries we envisage being generated by the launch of Stakeholder Pensions."

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Honorary Officers, Members of Council and Senior Staff as at 3 April 2000

Peter White
Chairman

Anna Edgeworth
Deputy Chairman

Members of Council

Mike Anthony
Karen Aveyard
Michael Brown
John Cunliffe
Chris Dimmock
Michael Lake, CBE
Brian MacMahon
Michael Mawdsley
Martin Miles
Robert Pye
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Baroness Turner of Camden
Keith Wallace
Graham Wright
Huw Wynne-Griffith

Honorary Officers

Malcolm McLean, OBE Chief Executive
Des Hamilton Technical Director
Barry Wilkins Director of Administration
Brian Belsey Technical Specialist
Simon Mayho Technical Specialist

Ian Roylance Technical Specialist
John Spencer Technical Specialist
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