

# Agreement

## The Pensions Regulator (the “Regulator”) and The Pensions Ombudsman (the “Ombudsman”)

(together “the Parties”)

### **1. Introduction**

- 1.1 The pensions landscape is forever changing. In recent years, significant policies have been introduced from auto enrolment to pension freedom reforms. Along with opportunities, there has been a rise in pension scams and the greater need for robust governance standards. Key stakeholders need to work together recognising their shared objectives, aims and values; to protect pension scheme members and ensure a safe pensions saving environment. The Ombudsman and the Regulator as stakeholders are united in wanting a closer engagement to share approaches and information. This agreement (the “Agreement”) confirms such principles between The Ombudsman and the Regulator.

### **2. Principles of this Agreement**

- 2.1 This Agreement seeks to set out principles of information sharing, for the Parties in carrying out their respective functions while maintaining compliance with their respective governing legislation and any other legislation governing disclosure.
- 2.2 The Parties will look to share information when it is considered that disclosure would assist in the discharge of their respective functions. They will have regard to the legal restrictions and obligations on use of information shared between the Parties including onward disclosure of information by the Parties in the exercise of their statutory functions and to their respective stakeholders.
- 2.3 Recognising that there are shared goals and an overlap in responsibilities, the Parties agree that any complaints which have been wrongly directed will be passed (with the complainant’s consent) to the correct organisation with the minimum of disruption to the complainant.

### **3. Information that may be exchanged**

- 3.1 The following legislation and/or regulations thereunder impose obligations on the Parties that are relevant to this Agreement:-

Pensions Act 2004 (the "Act");

Pension Schemes Act 1993;

Data Protection Act 1998; and

Freedom of Information Act 2000.

- 3.2 Without prejudice to other legislative provisions:-

The Ombudsman may disclose any information which it obtains for the purposes of an investigation to the Regulator if it considers that the disclosure would enable or assist the Regulator to discharge any of its functions.

The Regulator is not precluded from disclosing 'restricted information' as defined in the legislation to the Ombudsman if the Regulator considers that the disclosure would enable or assist the Ombudsman to exercise its functions.

- 3.3 Each Party is responsible for ensuring as far as is practicable that information exchanged as part of this Agreement is up to date and accurate (although this does not imply that the Parties should conduct due diligence to verify information received from third parties prior to disclosure).

### **4. Restricted Information**

- 4.1 The Regulator holds information which is 'restricted information' under Section 82 of the Act. Restricted information is defined at section 82(4) as being information obtained by the Regulator in the exercise of its functions which relates to the business or other affairs of any person (with certain specified exceptions).

- 4.2 Restricted information must not be disclosed by the Regulator or by anyone else who receives it (either directly or indirectly) from the Regulator unless permitted by the Act, see section 82(1) of the Act. Section 82(5) provides that it is a criminal offence to disclose restricted information except as permitted.

- 4.3 Additional restrictions apply to the use (including disclosure and onward disclosure) of "tax information" to which section 88 of the Act applies. This is information held by Revenue and Customs (HMRC) in connection with certain of their functions, which may be disclosed to the Regulator in accordance with section 88(2).

- 4.4 Section 82 does not preclude the disclosure by the Regulator of restricted information in certain circumstances.

## **5. Data retention and disposal**

- 5.1 The Regulator and the Ombudsman are Data Controllers for the purpose of the Data Protection Act 1998 and will handle any personal data exchanged in accordance with the requirements of the Data Protection Act 1998 (or any superseding legislation).
- 5.2 Each Party agrees to adhere to its own internal policies regarding information handling and retention.
- 5.3 Each Party may carry out audits of the other Party, with reasonable notice, to ensure that any shared information is treated in accordance with this Agreement.
- 5.4 Each Party's Data Protection Officer will, as soon as practicable within 24 hours, be notified of any security breaches involving the shared information.

## **6. Access and security**

- 6.1 Shared information will, where necessary, be protectively marked in accordance with HMG Security Classifications.
- 6.2 Access to shared information will, in line with the Cabinet Office data sharing requirements and HMG security standards, be limited to relevant staff on a need to know basis.

## **7. Management**

- 7.1 This Agreement does not create any new legal gateways or contractual relationship to disclose information between the Parties. Each Party has signed the Agreement to record its respective understanding. The principles set out in this Agreement are all subject to applicable legal requirements as to lawful information sharing and use.
- 7.2 The Parties may transfer requests for information under the Data Protection Act 1998 or Freedom of Information Act 2000 if the requested information is not held by the Party receiving the request, but is held by the other Party.
- 7.3 This Agreement will be reviewed as and when required by the Parties.

Signatories:

On behalf of the Regulator:

Date: 09/03/18

A handwritten signature in black ink, appearing to read 'N Parish'.

Nicola Parish  
Executive Director Front Line Regulation

On behalf of the Ombudsman:

Date: 12/03/18

A handwritten signature in black ink, appearing to read 'C Ryan'.

Claire Ryan  
Legal Director