

The Pensions Regulator

Determinations Panel Chair and Determinations Panel Members

Information Pack
July 2020

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About The Pensions Regulator

The Pensions Regulator (TPR) is the regulator of work-based pensions, established under the Pensions Act 2004 as a non-departmental public body.

Legislation provides that TPR is operationally independent of Government, and is overseen by a Board of Executive and Non-Executive members.

TPR's objectives as set out in the Pensions Act 2004 and Pensions Act 2008, are to:

- Protect the benefits of members of work-based pension schemes;
- Protect the benefits of members of personal pension schemes (where there is a direct payment arrangement)
- Promote and improve understanding of the good administration of work-based pension schemes;
- Reduce the risk of situations arising which may lead to compensation being payable for the Pension Protection Fund; and
- Maximise employer compliance with the employer duties and the employment safeguards introduced by the Pensions Act 2008;
- Minimise any adverse impact on the sustainable growth of an employer (in relation to the exercise of TPR's functions under Part 3 of the Pensions Act 2004 only).

In order to meet these, the Regulator concentrates its resources on schemes where it identifies the greatest risk to the security of members' benefits. It also promotes high standards of scheme administration and governance. The Regulator operates across three main areas: Defined Benefit schemes; Defined Contribution schemes, administration and governance; and the employer compliance regime including pensions auto-enrolment.

TPR looks after the interests of defined benefit (DB) occupational and defined contribution (DC) work-based pension schemes. In 2019, the DB landscape now comprises more than 10.7 million members and the DC market has over 18 million memberships. TPR is also responsible for maximising employer compliance with the new employer duty of the pension reform programme.

Role of the Determinations Panel

The Determinations Panel is a subcommittee of TPR's board, established under section 9 of the Pension Scheme 2004 Act. It operates independently from other parts of the organisation, including TPR's case teams. The Panel Chair is responsible for reporting to TPR's Chair on a regular basis and must by law provide a formal account of the Panel's work activities to TPR's Board annually.

The Panel's regulatory role is undertaken on individual cases on which TPR regulatory teams seek a Panel determination. Generally these are requests to exercise functions reserved to the Panel by the terms of the legislation. Individual panels are established as required in order to determine specific requests to take regulatory action, in an impartial way, based on the facts presented. These generally consist of three members. Each member will be expected to be able to chair such panels from time to time.

In addition, the Panel meets together quarterly on a collegiate basis, to agree the overall way in which it operates, and members undertake further activities on a more ad hoc basis.

In addition to the Panel Chair, there are currently seven other Panel members. The current Panel Chair's second term of appointment comes to an end in April 2021.

TPR wishes to appoint a Panel Chair-designate by December 2020.

Up to three Panel members are also required to replace members coming to an end of their term of office. These appointments will be made from January 2021.

Changes to the Regulator's scheme funding, information-gathering and anti-avoidance powers have enabled it to be clearer about what it expects from employers in relation to scheme funding, and tougher where a scheme is not getting the funding it needs.

TPR is based in Brighton. Determinations Panel meetings were historically held there, although it is expected an increasing number of meetings will be held remotely.

More information can be obtained from the TPR website at: <https://www.thepensionsregulator.gov.uk/en/about-us/how-we-regulate-and-enforce/determinations-panel>

The Pensions Regulator's Determinations Panel

TPR is seeking to appoint three Determinations Panel members and one Determinations Panel Chair.

These appointments will each be made for a four-year period with the possibility of a four-year reappointment.

Role of the Panel Members and Chair

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In addition to the Panel Chair, there are currently seven other Panel members.

The draft code of practice and decision-making procedure can be found on:

<https://www.thepensionsregulator.gov.uk/en/about-us/how-we-regulate-and-enforce/case-procedures->

This link will also provide access to the Pensions Scheme Act and draft regulations.

Panel Member Person Specifications – Experience and Competencies

Each Panel member will be responsible for making fair and reasoned decisions, with colleagues, on all matters referred by regulatory case teams to the Panel for decision on the use of powers.

Each Panel member will need to be able to demonstrate:

- **Analytical skills:** including ability to analyse significant and complex data / reports relating to pension schemes – including representations from organisations under scrutiny and senior executives within the Regulator.
- **Sound, consistent, robust, judgement and decision making skills:** as part of the Panel and in chairing individual case panels, making critical decisions, based on available information and legislative provisions, on whether/how the Regulator should exercise its powers.
- **Independent adjudication and reasoning skills:** maintaining an independent, objective perspective on highly sensitive cases – at times relating to the commercial, operational and governance arrangements for organisations under scrutiny.
- **Team working, collaboration and communication skills:** working together with other Panel members to reach and to set out reasoned decisions.
- **Process management skills:** both providing and receiving feedback on the working arrangements within the Regulator, as they affect the Panel's activities.

For each post the member will have:

- Board level experience in an appropriate business / finance / public sector background;
- Proven ability in impartial decision making within a statutory framework;
- Proven ability in weighing evidence, setting out reasoned decisions, understanding principles of legislation, working with colleagues;
- Knowledge of the environment within which the public sector and regulation works.

Members may also bring specific expertise: including legal, financial or economics expertise as well an understanding of the need to reflect the interests of pension scheme members, and/or consumer matters.

Chair Person Specifications – Experience and Competencies

The Panel Chair will need to demonstrate the same key experience and competency requirements as for each Panel member.

Additionally the Panel Chair will need to be able to demonstrate:

- **Leadership skills and experience:** to lead the Panel as a whole; to ensure that through its decision making and reasoning the Panel consistently commands credibility with key stakeholders; and to
- support individual Panel members, including through regular appraisal and ensure members have the necessary skills for their roles;
- **Management skills and experience:** including to provide guidance to the Panel's administrative support team.

Terms of Appointment

Time Commitment

Panel members will be expected to play a significant role in the work of the Panel as outlined earlier in the pack.

The overall time commitment for each of the roles is likely to be around 30 – 50 days per year for Members and 40 – 60 days per year for the Chair.

Location

The Pensions Regulator is based in Brighton. Determinations Panel meetings have been generally held there (with some UK travel) although an increasing number of meetings will be held remotely.

Remuneration

Determinations Panel members will be entitled to remuneration of £692 per day.

The Determinations Panel Chair will be entitled to remuneration of £900 per day.

For each role, reasonable travelling expenses can be paid.

Period of Appointment

The appointments will each be made for a four-year period. One re-appointment period, again of four years, is possible.

In order to allow for effective training and induction, TPR would like the new Determinations Panel Members to be designated by January 2021. The Chair will be designated by December 2020 at the latest and will take up post in April 2021.

Probity and conflicts of interest

TPR must ensure that the individuals appointed are committed to the principles and values of public service. These principles are: Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership.

TPR's activities have wide implications across the whole of UK business, in particular the financial services industry. Candidates will need to demonstrate that they do not have other interests likely to conflict with their responsibilities as a member of the Determinations Panel. They should declare any potential conflict of interest as early as possible in the selection process and also disclose information or personal connections that, if appointed, might be open to misperception. Any potential conflicts of interest will not prevent you going forward to interview but may, if appropriate, be explored with you during your interview to establish how you would address the issue(s) should you be successful in your application. Annex 2 provides information on conflicts to help applicants evaluate whether or not they have a potential conflict.

How to Apply

If you wish to apply for these positions, please supply the following:

1. **A covering statement** – (maximum 2 pages) – this is your opportunity to demonstrate how you meet the criteria set out in the person **specification in bold** on page 6 (*and* page 7 for those applying to the Chair post). You should aim to provide specific and detailed examples that demonstrate how your knowledge and experience matches each of the essential criteria and any of the desirable ones. You should describe what your role was in achieving a specific result. It will also benefit the selection panel if you can be clear which particular evidence you provide relates to which criteria. Providing separate paragraphs in relation to each criterion is common practice. Please ensure your full name and the role to which you are applying are clearly noted at the top of this statement. Candidates can apply to both member and Chair roles – please submit a separate covering statement for each role applied to.
2. **Curriculum Vitae** - with your education and professional qualifications and full employment history.
3. **Equal opportunities monitoring form** (included in the application form). This form will not be disclosed to anyone involved in assessing your application.
4. **Political activity form** (included in the application form).
5. **Conflicts of interest declaration** (included in the application form).

The closing date for receipt of applications is 24th August 2020.

Please via the online portal found in the website:

All applications will be acknowledged – please contact Andrew Timlin by email (Andrew.timlin@hays.com) if you have received no confirmation within five working days.

If you have any difficulty in sending your application or need the application form or any part of the vacancy details in an alternative format (e.g. Braille, large print, audio CD, tape or e-text, please contact Andrew Timlin on: 020 72598743.

The Selection and Recruitment Process

All appointments are made following an open competition conducted in accordance with the requirements of the Pensions Act 2004 (in particular Section 9 and Schedule 1), and in accordance with the principles of merit, fairness and openness set out in the Code of Practice published by the Commissioner for Public Appointments.

(See: <http://publicappointmentscommissioner.independent.gov.uk/the-code-of-practice/>)

The legislation provides for the Panel Chair to nominate to TPR's Board persons suitable for appointment as Panel members and for these member appointments to be made by the Board.

Initial longlisting of candidates will be conducted by the selection panel on the basis of how well they feel your application materials offer a good match to the skills and experience required for the roles.

Hays Executive will conduct initial interviews for the roles to gather more information on candidate suitability. Initial interviews will occur in Hays offices in central London.

Short listing of candidates will then be undertaken by the selection panel, assessing both the information provided in application documents and that provided by interview.

Selection Panel Members

The selection panel for the Chair post will consist of Mark Boyle - Chair of TPR, Julian Barker – DWP Private Pensions team, Amerdeep Somal – independent panel member.

The selection panel for the Member posts will consist of Andrew Long - Chair of the Determinations Panel, Amerdeep Somal – independent panel member and Marissa Martin, Determinations Panel Support manager. It is also our intention to involve the Chair Designate in the interview process for Members.

Contact Information

For an informal confidential discussion about the posts, please call our advising consultant, **Andrew Timlin** on 07887777735 or **Simon Winspear** on 07525466357.

Timetable

Panel members:

First interviews will take place around week commencing the **7th and 14th September**.

Panel members' final interviews will be held around week commencing the **26th October**.

The successful Determinations Panel members will take up appointment in **January 2021**.

Chair:

Initial interviews will take place around week commencing the **7th and 14th September**.

Final panel interviews will be held around week commencing the **28th September**.

The successful Determinations Panel Chair will take up appointment in **April 2021**

The dates above are correct at time of writing but are subject to change.

Diversity and Equality

TPR is committed to providing services which embrace diversity and which promote equality of opportunity. TPR is committed to maximising the diversity of Panel members. Applications from women and black, minority and ethnic and disabled candidates are particularly welcome.

Complaints

If you feel you have reason to complain about the policies and practices followed in the appointments process you should direct your concerns in the first instance to Marissa Martin, Determinations Panel Support Manager, Finance and Operations who will make every effort to deal with these and respond to you. Email: Marissa.Martin@tpr.gov.uk

Annex 1

Public Body Code of Conduct

You are required to conduct yourself in accordance with the provisions of the Seven Principles of Public Life. It is essential that you are, and are seen to be, honest and impartial in the exercise of your duties.

Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

Holders of public office should promote and support these principles by leadership and example.

The Committee on Standards in Public Life was established by the then Prime Minister in October 1994, under the Chairmanship of Lord Nolan, to consider standards of conduct in various areas of public life, and to make recommendations

Annex 2

Conflicts of interest

What is a conflict of interest?

Public Appointments and those to Arms-Length Bodies require the highest standards of propriety, involving impartiality, integrity and objectivity, in relation to the stewardship of public funds and the oversight and management of all related activities. This means that any private, voluntary, charitable or political interest which might be material and relevant to the work of the body concerned should be declared.

There is always the possibility for real or perceived conflicts of interest to arise. Both are a problem, as the perceived inference of a conflict may, on occasions, be as damaging as the existence of a real conflict. It is important, therefore, that you consider your circumstances when applying for a public appointment and identify any potential conflicts of interest, whether real or perceived.

Surely a perceived conflict is not a problem, as long as I act impartially at all times?

The integrity of the individual is not in question here. However, it is necessary for the standing of the individual and the committee that members of the public have confidence in their independence and impartiality. Even a perceived conflict of interest on the part of a committee member can be extremely damaging to the body's reputation and it is therefore essential that these are declared and explored, in the same way as an actual conflict would be. The fact that a member acted impartially may be no defence against accusations of potential bias.

What should I do if I think I have a conflict of interest?

You will find a section on conflicts of interest in the application form for you to complete. This asks you to consider and declare whether or not you have a real, or perceived, conflict. If you are unsure if your circumstances constitute a possible conflict, you should still complete this section, in order to give the Selection Panel as much information as possible.

If I declare a conflict, does this mean I will not be considered for appointment?

No - each case is considered individually. If you are short listed for interview, the Panel will explore with you how far the conflict might affect your ability to contribute effectively and impartially on the committee and how this might be handled if you were to be appointed. For example, it may be possible to arrange for you to step out of meetings where an issue is discussed, in which you have an interest. However, if, following the discussion with you, the Panel believes that the conflict is too great and would call into question the probity of the

committee or the appointment: they can withdraw your application from the competition.

What happens if I do not declare a known conflict, which is then discovered by TPR after my appointment?

Again, each case would be considered on its merits, but TPR may take the view that by concealing a conflict of interest, you would be deemed to have breached the Seven Principles of Conduct Underpinning Public Life and may terminate your appointment.

What happens if I do not realise a potential conflict exists?

This situation may arise where the applicant is not familiar with the broad range of work which a body covers and therefore does not realize that a conflict might exist. In some cases, the Panel, with their wider knowledge of the body, might deduce that there is a potential conflict issue based on the information on employment and experience provided by the candidate in the application form. They will then explore this at interview with the candidate.

What happens if a conflict of interest arises after an appointment is made?

This could arise for two main reasons. The first is that the member's circumstances may change, for example, they may change jobs and in doing so, a conflict with their work on the committee becomes apparent. The second is where a member is unfamiliar with the range of the work of the body, but after appointment it becomes clear that a conflict exists where none had been envisaged during the appointment process.

In both cases, the issue should be discussed with the Chair, to decide whether or not the member can continue to carry out their role in an appropriate manner and each case is considered individually.

It may be that the conflict is such that it would be impractical for the member to continue on the committee if they would have to withdraw from a considerable amount of the body's routine business. In such, cases, the member may be asked to stand down from the body.

Areas where a conflict could arise

There are five main issues, which could lead to real, or apparent, conflicts of interest. These are:

- Relevant pecuniary or other interests outside the organisation;
- Relationships with other parties/organisations which could lead to perceived or real split loyalties;
- Pending Government policy could give unfair personal advantage to people with allied business interests – for example access to privileged information – trade secrets;

- Perception of rewards for past contributions or favours;
- Membership of some societies or organisations.

If you wish to discuss any potential conflicts of interest before you apply, please contact Andrew Timlin at Hays Executive on 020 72598743.