PENSIONS POLICY INSTITUTE

PPI

What should be the roles and objectives of the Personal Accounts Delivery Authority and Board?

What should be the roles and objectives of the Personal Accounts Delivery Authority and Board?

A Discussion Paper by Penny Beynon and Niki Cleal

Published by the Pensions Policy Institute

ISBN: 978-1-906284-01-5
www.pensionspolicyinstitute.org.uk

This research has been co-sponsored by the Department for Work and Pensions, IMA, NAPF and Which?. The PPI is grateful for their support.

Introduction

The Government set out its intention to introduce major reforms to the UK pension system in two White Papers in 2006. These include substantial reforms to both state and private pensions and the set up of a national pensions saving scheme, called Personal Accounts.

The PPI is holding a series of seminars to facilitate debate regarding outstanding issues in Personal Accounts. The first seminar in this series was held in March 2007, and explored alternative charging structures for Personal Accounts.

The second seminar will be held in May 2007, and will explore the governance of the Personal Accounts scheme. To date, the governance structure for setting up and delivering Personal Accounts has not been extensively debated, though there are important issues for future Personal Account holders and the industry providers who will be involved in operating aspects of Personal Accounts. This discussion paper presents research to inform debate in this area.

In its Personal Accounts White Paper, ***Personal Accounts: a new way to save***, the Government proposed a three stage model for setting up and eventually delivering Personal Accounts.

1. Setting up an advisory Delivery Authority to advise on the operational and commercial impact of options and to advise on the design of the commercial and procurement strategies.
2. Extending the remit of the Delivery Authority to take on executive powers to negotiate contracts and construct the Personal Accounts scheme.
3. Transition to a Personal Accounts Board to run the scheme from launch.

Research for this discussion paper included: interviews with 32 individuals representing 20 stakeholder organisations; case study analysis; and, desk-based review of policy documents and responses to the Department for Work and Pensions' (DWP) Personal Accounts White Paper. The purpose was to explore the role and objectives of the Personal Accounts Delivery Authority and Board.

We found that any discussion of the Delivery Authority's and Board's objectives cannot be had in isolation of a discussion about the objectives of the Personal Accounts scheme itself. Chapter one of this paper discusses the scheme's objectives and stakeholders' responses to them, along with their responses to the Government's proposed three-stage model for delivering Personal Accounts.

Chapters two and three consider the roles and objectives of the Personal Accounts Board and Delivery Authority respectively. We deal first with the

Board because it is the body that will have responsibility for delivering the scheme once it goes live in 2012. In many ways the ultimate design of the Board should influence the work of the Delivery Authority. The Delivery Authority will need to have consideration for the powers and constraints that the Board will eventually have to work within.

Throughout the paper, we draw on case studies from several different national and international examples to illustrate options for dealing with specific governance issues. This is because we have found no precedent in the UK for setting up an arm's length Government body that has followed the three-stage process set out for Personal Accounts. Furthermore, the Personal Accounts model is likely to be more independent of Government than national pension saving schemes in other countries, in particular Sweden and New Zealand, which has implications for the applicability of those governance models. Chapter four explores some transitional issues to be considered as the Delivery Authority hands over its functions, and, finally, chapter five discusses key risks to Personal Accounts and the roles of the Delivery Authority and Board in mitigating those risks.

The research has been co-sponsored by the Department for Work and Pensions (DWP), IMA, NAPF and Which? The PPI is grateful for their support.

Summary of conclusions

The Government intends for the Personal Accounts scheme to be run for its members, independently of Government, to be credible and to build public confidence, and to utilise the knowledge and skills of individuals with experience of private pension administration. Stakeholders who were interviewed for this research are broadly in agreement with these four aims for setting up and delivering Personal Accounts. Independence from Government is seen to be particularly important in order to insulate investment decisions from any risk of political influence.

The Government has proposed a three-stage model for setting up and delivering Personal Accounts:

1. Setting up an advisory Delivery Authority to advise on the operational and commercial impact of options and to advise on the design of the commercial and procurement strategies.
2. Extending the remit of the Delivery Authority to take on executive powers to negotiate contracts and construct the Personal Accounts scheme.
3. Transition to a Personal Accounts Board to run the scheme from launch.

Interviewees have varying degrees of understanding about the Government's proposed three-stage model. An advantage of the three-stage model is being able to recruit individuals with different expertise relevant to each phase. A disadvantage is that there is potential for lack of continuity and accountability.

Interviewees are broadly in agreement with the objectives set out for the Personal Accounts scheme, although they do feel that these objectives are very high level, potentially conflicting, and in some cases interviewees have proposed changes to specific objectives. Interviewees feel that governing in the best interests of members and beneficiaries (and potential members and beneficiaries) needs to be the overriding objective for the Personal Accounts scheme, and any other objectives should be secondary.

Personal Accounts Board

The introduction of Personal Accounts will have an impact beyond the Personal Accounts scheme. Stakeholders are calling for clarity about roles and responsibilities for: the Personal Accounts Board, Department for Work and Pensions (DWP) and other organisations. The report presents three options for the remit of the Personal Accounts Board:

- Narrow remit that would be limited to delivering the Personal Accounts scheme.
- Broad remit encompassing all aspects of delivering the Personal Accounts scheme and other elements of pension policy reform, such as registering exempt occupational pension schemes and monitoring employer compliance.

- Hybrid remit that would imply a responsibility to deliver the Personal Accounts scheme and to provide advice to Government on broader pensions policy reform areas, such as monitoring overall saving levels.

For the most part, stakeholders agree that the Personal Accounts Board should be responsible for core operational tasks associated with running Personal Accounts. With one exception, most interviewees agree that the Personal Accounts Board should not be responsible for monitoring and enforcing employer compliance or registering exempt schemes. With relation to taking policy decisions, views about the Board's ongoing role are considerably less clear. This suggests that interviewees are leaning towards a narrow or a hybrid remit for the Board.

Interviewees feel that the objectives for the Personal Accounts Board should be the same as those for the Personal Accounts scheme, or could include additional objectives if the Board has a broad remit.

The structure of the Personal Accounts Board and its legal status will have implications for the degree of independence the Board has from Government. The Government decided that the Non-Departmental Public Body (NDPB) model was the most favourable option because it struck the appropriate balance between independence and accountability.

Occupational pension schemes in the UK are typically set up as trusts, governed by a Board of Trustees, covered by a trust deed and rules, and subject to provisions of trust law. It is possible for an NDPB to also be a company run through trust, and this could be a possible model for the Personal Accounts Board.

It is important that the governance arrangements for Personal Accounts reassure members, and future members, that their interests are placed at the heart of the Personal Accounts scheme. This could help maintain confidence and promote participation. There are several approaches for representing consumers' and other stakeholders' interests to the Personal Accounts Board and some approaches could operate together. Interviewees are generally supportive of the Board having a fiduciary duty to govern in members' best interests and a legal duty to consult. Overall, they support the Board having a consumer panel rather than an independent body for representing consumer interests in Personal Accounts. Some stakeholders feel strongly that member representation on the Board is critical.

The Personal Accounts Board will need to be accountable to the Government, to the public, and to its members. Interviewees generally support the Personal Accounts Board being accountable to the public through an annual report that is laid before Parliament. The Swedish Orange envelope was mentioned by several interviewees as a useful model for reporting to members.

Executive Delivery Authority

Overall, interviewees are less reluctant for the executive Delivery Authority to have a role in designing and setting up processes for existing pension provision than they are for the Personal Accounts Board to have a role in this area. However, they warn that there are risks of non-delivery if the Delivery Authority is tasked with too large a remit.

As with the Board, interviewees think that the objectives for the executive Delivery Authority should be at least the same as those for the Personal Accounts scheme, or should also include additional objectives if the Delivery Authority has a broad remit. Furthermore, they suggest that the Delivery Authority should be required to have regard to the objectives set out for the Personal Accounts Board and the rules and restrictions it will be bound by.

Broadly speaking, stakeholders want to see the Personal Accounts scheme designed and set up by people with experience running large multi-employer occupational schemes and who have experience of the Personal Accounts target market. Interviewees expect that the structure of the executive Delivery Authority will closely resemble that of the advisory Delivery Authority, ie with a Chairman, executive and non-executive members, a Chief Executive and provision to set up committees and subcommittees. They also expect considerable continuity of personnel across the two bodies. As such, initial appointments are particularly important.

Stakeholders commended the DWP for the open consultation and engagement process that the department has carried out thus far with regard to pension reform. They want to see this open and consultative approach continue through the advisory and executive Delivery Authority phases. Interviewees stress that they think it is important for stakeholders' needs (particularly those of scheme members) to be represented through all stages of setting up and delivering Personal Accounts.

The advisory Delivery Authority will be accountable to the Secretary of State through an annual report that will be laid before Parliament. Interviewees suggest that the same accountability process should continue for the Delivery Authority when it takes on executive powers. They also suggest that given the short time frame for delivering Personal Accounts, additional measures may be required. Two suggestions are for more regular reporting in the lead up to the 'go live' date, and for missed deliverables to trigger an ad hoc report.

Transition from the Delivery Authority to the Personal Accounts Board

Interviewees expect considerable continuity in the personnel and structure of the advisory and executive phases of the Personal Accounts Delivery Authority. They also expect continuity and seamless transition from the Delivery Authority to the Board, but are less clear about how this may be achieved given the different expertise required in each phase. Some options for transition include:

- A-Day Handover where the Board takes on all responsibility for running Personal Accounts from 2012.
- Pre 2012 Handover where the Board would take over responsibility for setting up and delivering the scheme prior to the 2012.
- Post 2012 Handover where the Delivery Authority would run the Personal Accounts scheme for the first 1-2 years of its operation and handover to the Board at a later date.
- Parallel Operation where the Board and the Delivery Authority would both operate in parallel for some period, with different remits or different powers.

Interviewees do not have strong views about the best way to transition from the Personal Accounts Delivery Authority to the Personal Accounts Board. If the Delivery Authority and Board have different remits (if one is narrow and another broad, for example), then transition may be less straightforward than if one body simply takes over where the last left off. Regardless of how transition is approached, consideration needs to be given to achieving clarity of roles, minimising additional costs, and maximising continuity and flexibility.

Key risks

Interviewees identify a number of risks and challenges in setting up and delivering Personal Accounts. Risks relate mainly to Personal Account being a major policy and commercial undertaking and the fact that much is unknown about how the target group and employers will respond. The Delivery Authority and Board should have a role in coordinating consultation and input from multiple agencies, although overall oversight may rest with a different organisation. They will also have roles in developing a greater understanding of the target group, testing that systems work for the target group, managing expectations of savings returns, and identifying and mitigating delivery risks.

While they do see risks, interviewees want to see the Personal Accounts scheme succeed and many offered their organisations' assistance in working with the Government to mitigate risks further as the Delivery Authority and Board are established.

Chapter 1: Personal Accounts - a national pensions saving scheme

The Government set out its intention to introduce major reforms to the UK pension system in two White Papers in 2006 and the Pensions Bill, which is currently being debated in Parliament[1]. These include substantial reforms to both state and private pensions and the set up of a new, low-cost, national pensions saving scheme, called Personal Accounts. Although many details are yet to be finalised, the basic framework would be:

- Target market: ***people between age 22 and State Pension Age, who earn over approximately £5,000 per annum, and who either do not have access to a work-based pension scheme with an employer contribution of at least 3 per cent, or do not participate in one if offered[2].***
- Auto-enrolment for all employees in the target market, with the opportunity to opt out, from 2012.
- A minimum contribution of 4% from the individual on band earnings between £5,035 and £33,540 a year. This would be matched by a minimum[3] 1% contribution of band earnings from the Government and a compulsory[4] 3% contribution of band earnings from the individual's employer.

Internationally there are relatively few examples of national pension saving schemes with similar features and on the same scale as proposed for Personal Accounts. The Swedish Premium Pension scheme and the New Zealand KiwiSaver scheme are two notable examples. These schemes are discussed in Box 2 of Chapter 2, with the US Federal Employee Retirement scheme, Thrift.

The Government intends to introduce a second Bill in autumn 2007, which will include the objectives for the Personal Accounts scheme. In its December White Paper, ***Personal Accounts: a new way to save,*** the Government stated that the scheme objectives are likely to include[5]:

1. ***Optimising levels of participation and contribution among the target group***
2. ***Setting an investment strategy in the best interests of the members***
3. ***Minimising burdens on employers***
4. ***Considering the impact on other high quality pension provision***
5. ***Assuring security of administration***
6. ***Governing in the best interests of members and beneficiaries***
7. ***Ensuring that the Board acts impartially, prudently, responsibly and honestly***
8. ***Delivering appropriate levels of choice***

[1] DWP (2006 SR), DWP (2006 PA), Pensions Bill (2006)
[2] DWP (2006 PA RIA) page 57 – throughout this paper, italics indicate a direct quote or the name of a source document
[3] As this is provided through the current system of pension tax relief, the Government contribution would be higher for individuals who pay higher rate tax.
[4] For employees who do not opt out of Personal Accounts. Employer contributions may be phased in.
[5] DWP (2006 PA) paragraph 3.17 N.B. Numbers have been added for ease of reference but do not appear in the original document and should not be taken to denote order of importance.

9. ***Achieving both the lowest possible charges for members and charges that are fair between members***
10. ***Ensuring that funds are invested in the best interests of the members.***

A three-stage model for governing Personal Accounts
The Government's intentions for delivering Personal Accounts are set out in a series of papers released in 2006[6]. Overall, the Government intends for the delivery model to ensure the scheme: is run for its members, is run independently of Government, is credible and builds public confidence, and utilises the knowledge and skills of individuals with experience of private pension administration[7]. With these goals in mind, the Government has proposed a three stage model for setting up and eventually delivering Personal Accounts.

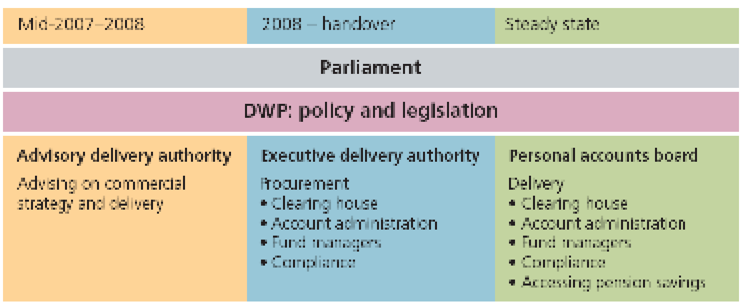
The Government's proposal

The Government has proposed a three-stage model for setting up and delivering Personal Accounts[8]:

1. Setting up an advisory Delivery Authority to advise on the operational and commercial impact of options and to advise on the design of the commercial and procurement strategies.
2. Extending the remit of the Delivery Authority to take on executive powers to negotiate contracts and construct the Personal Accounts scheme.
3. Transition to a Personal Accounts Board to run the scheme from launch.

The timing and responsibilities in each of these three phases are set out in figure 3.2[9] of the DWPs December paper ***Personal accounts: a new way to save***.

Figure 3.2: Responsibility for personal accounts



The PPI conducted interviews with 32 individuals from 20 organisations across the pensions sector. The purpose was to explore stakeholders' views about the roles and objectives of the Personal Accounts Delivery Authority in its executive phase and the Personal Accounts Board. We also asked interviewees about their views on the Government's policy aims for setting up and

[6] See DWP (2006 PA) and DWP (2006 PA RIA)
[7] DWP (2006 PA) paragraph 3.1
[8] DWP (2006 PA) page 81
[9] DWP (2006 PA) page 82

delivering Personal Accounts, the proposed three stage model, potential transition options and other governance issues, such as accountability and stakeholder representation[10]. Interviews did not focus on the Delivery Authority in its advisory phase because the Pensions Bill that sets out the roles and objectives of the advisory Delivery Authority is already close to becoming enacted. Funding arrangements were also out of scope because the DWP has commissioned separate research in this area.

We found that interviewees are broadly in agreement with the Government's four aims for setting up and delivering Personal Accounts. Insulating investment decisions from political, and other, influence is seen to be particularly important.

However, stakeholders who were interviewed have varying degrees of understanding about the proposed three-stage model. In particular, there is confusion about:

- The distinction between the bodies; reflected in the terminology stakeholders use to describe each body.
- The separation of roles between the Government and the Delivery Authority and Board; stakeholders assume greater independence between the Government and the Board than between the Government and the Delivery Authority, but are unclear about how closely the Delivery Authority in particular will work with DWP officials.
- The structure and legal status of the Personal Accounts Delivery Authority and Personal Accounts Board.

Despite some lack of clarity, overall, stakeholders do not disagree with the three-stage model. However, they feel that it is important for the Government to provide greater clarity about the roles of the Delivery Authority in its different phases, the Personal Accounts Board, and how these roles are different from those of the DWP and other Government agencies. One organisation did present opposition to the three-stage model. In their view, this approach would never be taken when setting up a pension scheme in the commercial world.

Some possible advantages and disadvantages of the three-stage approach were presented by interviewees:

- Possible advantages: Setting up Personal Accounts and operating the live-running scheme require different expertise. Having a Delivery Authority and then a Board will allow the Government to recruit the right expertise for each phase. Furthermore, the Government will require input from industry experts and those with knowledge of consumer issues as soon as possible if Personal Accounts are to go live in 2012; setting up the advisory Delivery Authority in the current Pensions Bill will facilitate early input. Having a Delivery Authority and then a Board will allow the Government to recruit individuals with

[10] See Appendix 1 for a full list of interview areas and more detail about the research methodology

relevant expertise in the short term but also to take more time to recruit Board members to oversee the ongoing operation of Personal Accounts.

- Possible disadvantages: Many interviewees voiced concerns about the potential for lack of flexibility, continuity and accountability. In particular, there is potential for a lack of flexibility in contracts set up by one body and then managed by another[11]. Transition issues of this nature need to be considered and carefully managed to ensure that the Board does not have its hands tied by early decisions taken by the Delivery Authority.

Background research for this discussion paper explored the roles and objectives of the Personal Accounts Delivery Authority and Board. We found that any discussion of the Delivery Authority's and Board's objectives cannot be had in isolation of a discussion about the objectives of the Personal Accounts scheme itself. As such, the rest of this chapter discusses the Personal Accounts scheme objectives and stakeholders' responses to them.

Personal Accounts scheme objectives

Interviewees agree that it is important for the Personal Accounts scheme to have a clear set of objectives and for these objectives to be set out in legislation. They are broadly in agreement with the objectives set out for the scheme in the Personal Accounts White Paper (listed on pages 7 and 8 of this paper), although they do feel that these objectives are very high level, potentially conflicting and in some cases interviewees proposed changes to specific objectives.

Overall, interviewees agree that:

- ***Governing in the best interests of members and beneficiaries*** (also potential members and potential beneficiaries) needs to be the overriding objective for the Personal Accounts scheme, and any other objectives should be secondary.
- In consultation with stakeholders, Government should be responsible for setting the objectives for the Personal Accounts scheme and scheme objectives should be set in legislation.
- Interviewees feel that the objectives of the Delivery Authority and the objectives of the Board will need to be in line with the objectives for the Personal Accounts scheme, however objectives may not be exactly the same.
- Some of the scheme objectives outlined in the Personal Accounts White Paper may be in conflict with each other and consideration needs to be given to the ways that potential conflicts might be resolved[12].

[11] Many interviewees used the London Underground Public Private Partnership to illustrate potential issues for Personal Accounts. In this case, one body (London Transport) was responsible for appointing long-term contracts (30 years) while another body (Transport for London) took on the responsibilities for managing those contracts after the competition was complete.

[12] For example, interviewees noted a potential conflict between considering the impact on existing provision and governing in the best interests of members. This could include aspects like the contribution cap, where

Some interviewees had comments regarding specific objectives of the Personal Accounts scheme. These are discussed in greater detail in Appendix 2.

Stakeholder interviews suggest that there is broad agreement about the objectives for the Personal Accounts scheme. The definition of roles will have implications for whether the Delivery Authority and Board are responsible for delivering against the scheme objectives only, or the scheme objectives and additional objectives that are broader than delivering Personal Accounts.

The rest of this paper considers the roles and objectives of the Personal Accounts Board and Delivery Authority, the transition between the two bodies and key risks to Personal Accounts. We deal first with the Board because it is the body that will have responsibility for delivering the scheme once it goes live in 2012. In many ways the ultimate design of the Board should influence the work of the Delivery Authority. Specifically, the Delivery Authority will need to have consideration for the objectives, remit and restrictions faced by the Board as it works to finalise the scheme design and implement systems and procure services for delivering Personal Accounts.

Rather than looking to one national or international model, this paper draws on several different case studies to illustrate options for dealing with issues in specific governance areas. This is because we have found no precedent in the UK for setting up an arm's length Government body that has followed the three-stage process set out for Personal Accounts. Furthermore, the Personal Accounts model is likely to be more independent of Government than national pension saving schemes in other countries, in particular Sweden and New Zealand, which has implications for the applicability of those governance models[13].

---

the pressure may be to have a very restrictive cap to prevent negative impact on existing provision, but where the interests of members would be best served by a higher cap. Box 3 of Chapter 2 presents some case studies that show ways of dealing with conflicting objectives.

[13] The Swedish and New Zealand models are discussed in more detail in Box 2 of Chapter 2.

Chapter 2: Personal Accounts Board

The Government's proposal

The Government intends for the eventual administration and running of the Personal Accounts scheme to be carried out by an independent body that is governed by a Personal Accounts Board. In the Personal Accounts White Paper, the Government stated that it intends for a second Bill to ***set out the legal framework for governing the scheme after launch. It will include objectives and statutory requirements of the Personal Accounts Board. Within this framework the organisation will have the flexibility to deliver the scheme in the best interests of its members***[14].

The Personal Accounts Board will have responsibility for overall management of the Personal Accounts scheme, setting the strategic direction for achieving objectives and for the strategy for investment. It will also need to ensure that the needs and requirements of individual groups within the larger target population (for example, women) are considered[15].

The Personal Accounts White Paper also anticipates that the Board will ***be a body corporate established under statute and self-financing. It will be subject to the normal scrutiny and accounting procedures, accountable to Parliament and will provide an annual report and accounts***[16]**.** While the Board will be responsible for employing its own staff, it is envisaged that it will not be a large organisation given that most of its functions will be contracted out. After its launch in 2012, it is anticipated that the Personal Accounts scheme may have around 8 million members and £7-8 billion contributions each year[17].

Role and responsibilities of the Personal Accounts Board

The introduction of Personal Accounts will have an impact beyond the Personal Accounts scheme. For example, policy and design decisions will need to be taken about the exempt scheme rules, and operational tasks will need to be undertaken to set up a process for registering exempt schemes. Interviewed stakeholders feel that there is a lack of clarity about how the roles and responsibilities that result from the introduction of Personal Accounts will be allocated between the Personal Accounts Board, the DWP and other agencies (for example, regulators and / or new bodies).

There are a number of different options for defining the scope and remit of the Personal Accounts Board.

Option 1: Narrow remit

One view is that the Personal Accounts Board should have a very narrow remit, such as might be expected if it was set up as an occupational pension trust. In this approach, the Board would focus solely on running the Personal Accounts scheme in the best interests of scheme members. Regulatory functions, policy decisions and any other

[14] DWP (2006 PA) paragraph 3.13
[15] DWP (2006 PA) paragraphs 3.18-3.19
[16] DWP (2006 PA) paragraph 3.20
[17] DWP (2006 PA RIA) page 6

tasks that result from pension reform more generally (for example, registering exempt schemes, monitoring overall savings levels) would rest with other agencies, as would all tasks related to state pensions reform and wider saving (for example, setting State Pension Age).

Option 2: Broad remit
An opposing view is that the Personal Accounts Board should take on a very comprehensive remit. In this approach, the Personal Accounts Board would be responsible for all tasks and decisions related to running the Personal Accounts scheme in the best interests of members (the same as a narrow remit) and would also be tasked with additional responsibilities. These may be limited to tasks and policy decisions that result from the introduction of Personal Accounts (such as who will be auto-enrolled, the exempt-scheme test and registration, and contribution cap), or could go further still and include pension and finance policy areas more widely (such as provision of generic advice).

Option 3: Hybrid remit
A third view sees the Personal Accounts Board take on a remit that is a hybrid of the above options. The Board would directly manage operational tasks related to Personal Accounts (same as the narrow remit). The Board would also provide advice to Government regarding wider impacts of Personal Accounts, and possibly more general saving and pension issues. But unlike the Broad remit, the Government would retain responsibility for making policy decisions in the wider areas.

Stakeholder interviews highlight differing opinions about the Board's role in five key areas: core operational tasks, scheme set up tasks, monitoring and enforcing employer compliance and registering exempt schemes, taking policy-related decisions and measuring the impact of reforms.

For the most part, stakeholders agree that the Personal Accounts Board should be responsible for core operational tasks associated with running Personal Accounts, in much the same way as an occupational pension scheme. The types of core operational tasks that stakeholders described are set out in Box 1. Depending on the final scheme design, there may be additional core operational tasks for the Board, related to bulk purchasing annuities for members for example.

Box 1: Core operational roles clearly within scope of Personal Accounts Board

Interviewees identify a number of key operational areas that the Board could be responsible for:

Administration

- Enrolment and opt out
- Receiving money from employers and members and ensuring it is allocated appropriately
- Paying out accounts at SPA / termination

Contract management

- Monitoring and reviewing provider performance
- Negotiating changes to terms and conditions or terminating contracts if required
- Tendering on expiry of existing contracts
- Monitoring service standards and ensuring uniformity across providers (for example, time delay in fund transfer, customer service standard)

Fund management

- Setting and reviewing the investment strategy
- Monitoring contracts with fund managers and performance against strategy

Customer service

- Receiving and dealing with enquiries
- Complaints management

IT systems

- Ensuring ongoing quality and security of IT systems
- Ongoing development of improvements

Information and communications to employers

- Regarding rights and responsibilities
- Regarding requirements and procedures

Information and advice to members and prospective members

- Regarding the Personal Accounts scheme, rights and responsibilities
- Regarding individual account performance and fund growth

Monitoring scheme performance against objectives

- Reporting to Government on scheme performance against objectives
- Reporting to members
- Monitoring participation rates, opt out rates, contribution levels
- Monitoring impact of scheme delivery on employers

Managing finances

- Financial management and reporting
- Servicing debt incurred in set up

Ensuring scheme compliance with relevant legislation and best practice guidelines

- Paying regulatory fees
- Adhering to relevant laws and codes of practice

With relation to set up tasks, stakeholders feel that the Board may have a role in setting up the scheme and procuring services, depending on when it takes over responsibility for Personal Accounts. This role is likely to be similar to the role set out for the Delivery Authority and is dealt with in Chapter 3.

With one exception, most interviewees agree that the Personal Accounts Board should not be responsible for monitoring and enforcing employer compliance or registering exempt schemes. However, they do accept that the Personal Accounts Board is likely to have a role in providing information that will assist a regulatory body to identify non-compliance and to monitor employer contribution levels in relation to employee earnings (ie is the employer contributing at least 3%). This suggests that interviewees are leaning towards a narrow or a hybrid remit for the Board.

With relation to taking policy decisions, views about the Board's ongoing role are considerably less clear. The policy areas that concern stakeholders relate to:

- the definition of the target group
- the scheme objectives
- auto-enrolment policy (will certain groups be exempt from auto enrolment? when will reenrolment occur? will enrolment be phased?)
- mandatory employer contributions limits
- contributions earnings band
- contributions cap
- transfer in / out policy and cap
- charging structure
- charging levels
- exempt scheme rules.

There are some policy-related decisions that interviewees feel are <u>outside the remit</u> of the Personal Accounts Board and fall clearly within the responsibility of Government. For example, setting the target group for Personal Accounts. Interviewees feel that as stewards of the Personal Accounts legislation, the Government is responsible for defining the Personal Accounts target group in line with its policy objectives, and that the target group should be defined in legislation.

Interviewees are <u>less clear about the Board's role</u> with regard to other policy-related decisions. For example, the role the Board should have with regard to setting the charging structure. One argument is that setting the charging structure is an operational task that sits within the scope of the Personal Accounts Board. Another argument is that setting the charging structure involves an element of policy-making that should be for the Government rather than the Personal Accounts Board.

There are other specific decisions that interviewees feel are clearly <u>within the remit</u> of the Personal Accounts Board, perhaps because they need to be insulated from political interference. For example, stakeholders are very clear that decisions relating to the investment strategy and fund management ought to be completely independent of Government, protected from political interference and made by professionals with appropriate expertise and experience. Some options for insulating investment decisions include:

- Setting the investment fund criteria in legislation (for example, the US Thrift scheme).
- Designing the scheme to maximise member choice (for example, in the Swedish and New Zealand schemes) and to reduce the significance of any default fund that may end up subject to political influence.
- Giving the independent Board full responsibility to make investment decisions.

Box 2 explores the Thrift, KiwiSaver and Premium Pension case studies in more detail.

Box 2: Insulating investment decisions

The US federal employees scheme, Thrift Savings Plan (TSP), is the largest DC scheme in the world with over 3.6 million participants and $US1.6 billion monthly in contributions[18]. The TSP has three features designed to insulate the Thrift Savings Fund (TSF) from political interference (including attempts to use the participants' savings to make political or ethical statements).

1. ***An independent Federal Retirement Thrift Investment Board administers the TSP.***
2. ***The law requires the board to act in the best interest of the plan's participants and beneficiaries. Failure to do so would subject the board's members and employees to civil and criminal liability.***
3. ***The structure of the TSP discourages political manipulation. The TSP invests in index funds rather than individual stocks. "Indexing" is a form of passive management in which securities are held in proportion to their share of the stock or bond markets as a whole[19].***

The Thrift Board consists of five members, appointed by the President; 1 in consultation with the Speaker of the House of Representatives (HOR) and the minority leader of the HOR, and 1 in consultation with the majority leader of the Senate and the minority leader of the Senate. The President appoints the Chairman.

The Board's role in designing the portfolio of stock options available to members and the investment strategy is also limited by legislation, which outlines five stock options to be offered.

- ***Government Securities Investments. The "G" Fund is invested in short-term U.S. Treasury bonds guaranteed by the Federal Government.***
- ***Fixed Income Index Investments. The "F" Fund is invested in a bond index fund, which represents a diversified group of U.S. Government, corporate and mortgage-related securities.***
- ***Common Stock Index Investments. The "C" fund is invested in a portfolio that tracks the stock market as a whole by replicating the performance of an index such as the Standard & Poor's 500.***
- ***Small Capitalization Stock Index Investments. The "S" Fund is invested in a portfolio that replicates the performance of an index that includes common stocks, excluding the stocks in the C Fund.***
- ***International Stock Index Investments. The "I" Fund is invested in a portfolio designed to track the performance of an index that represents the international equity markets[20].***

Money in the TSP and earnings on that money cannot be used for any purpose other than providing benefits to participants and their beneficiaries and paying TSP administrative expenses.

[18] Amelio (2006)
[19] Moore (2003) page 1
[20] Moore (2003) page 2, see also Federal Employees' Retirement System Act of 1986 (5 U.S.C. 8351 and 8401–79) section 8438 clause b

Box 2 (continued): Insulating investment decisions

The New Zealand KiwiSaver scheme is due to go live on 1 July 2007 and uses soft compulsion through auto enrolment of new employees and an option to opt out. Existing employees can also join, as can other New Zealand residents who are under age 65 and who are not in the workforce. The KiwiSaver scheme does not have a separate body established in legislation to oversee the scheme's operation. Instead, key responsibilities and functions are delegated to several existing Government departments[21].

While contributions are collected by a central agency, funds are managed in a decentralised way, ie by approved KiwiSaver scheme providers. KiwiSaver scheme providers are registered by the Government Actuary and governed by a trust deed that is interpreted and administered in accordance with New Zealand law. Individuals choose a provider for their KiwiSaver scheme. If no choice is made, a default provider is allocated randomly. This decentralised model means that there is no large central fund that requires management[22].

Six national default providers have been appointed through an open tender process[23]. The terms of appointment for the six default fund providers requires them to offer a default investment product. With respect to that option, ***the default provider in relation to the default investment product may not invest less than 15% or [sic] more than 25% of default members' assets in growth assets without the prior written approval of the Minister [of Finance][24].***

These restrictions are imposed by the Government to ensure members who are randomly allocated to default investment products do not lose money in the short term[25].

[21] See Appendix 3 for more information about the roles in KiwiSaver of different Government departments
[22] See New Zealand Treasury (2006)
[23] Cullen (2007)
[24] The power to impose rules about "default investment products" is in the KiwiSaver Act but the detail is in each default provider's ***Default Provider's Notice***. Default provider agreements can be found at http://www.isu.govt.nz/templates/ContentTopicSummary____26303.aspx (Schedule 3, paragraph 12)
[25] See also PPI (2006)

Box 2 (continued): Insulating investment decisions

The Swedish Premium Pension scheme is a defined contribution scheme that is mandatory for all earnings income, and all persons residing in, Sweden. Premium Pensions is governed by the Premium Pensions Authority (PPM), which is a Government agency. The PPM consists of 10 board members appointed by Government, including 1 MP and 2 trade union representatives[26].

Individuals contributing to the Premium Pension scheme can invest in a broad array of approved domestic and international funds. For individuals who do not wish to make an "active" investment decision, a Government-run default fund has been established. The default fund is known as the Seventh Swedish National Pension Fund (SSNPF) and it has a stated objective that ***people who do not have a fund manager, for whatever reason, should receive the same pension as others—that is our goal***[27]. Restrictions have been placed on the default fund to limit the role of the State in the Premium Pensions System:

- ***Individuals cannot actively opt for the default fund—they can only get in by making no active fund choice***
- ***The default fund cannot be marketed to potential "customers"***
- ***Individuals who opt out of the default fund are prohibited from opting back in***
- ***The fund does not exercise its role as a shareholder when companies bring issues such as re-electing the board of directors to a vote***[28]**.**

The SSNPF is managed by an authority owned by the State that has been set up to administer two funds within the Premium Pension system.

Overall, interviewees favour tasking the Board, or a sub-committee of the Board, with responsibility for investment decisions and they are reluctant for the design of the default fund to be set in legislation because they see this as too restrictive and may not result in optimal investment decisions (as is the case for the US THRIFT fund, for example). The scheme design that is proposed for Personal Accounts will not require members to choose from multiple providers. As such, the Swedish and New Zealand models for minimising political influence over investment decisions may be less applicable in the UK context.

Some interviewees feel very strongly that the Board, or a sub-committee of the Board, should be responsible for setting the initial investment strategy of Personal Accounts as well as implementing and reviewing it. This view has implications for the timing of the Board in the three-stage process.

Stakeholders' views vary as to whether or not the Personal Accounts Board should be responsible for measuring the impact of Personal Accounts in relation to the Government's pension reform goals. Interviewees agree that the Board should have a role in monitoring participation, opt out and savings

[26] PPM (2007)
[27] Weaver (2005) page 22
[28] Weaver (2005b) page 2

rates, and the differences in these levels among subgroups. This view suggests that interviewees support a narrow remit option for the Board. Different views were voiced about whether the Board should (and could) evaluate the extent to which Personal Accounts, and the reforms more generally, had achieved wider policy objectives, such as increasing private pension saving.

Stakeholders' concerns highlight the importance of having clarity about the distinction between the Board's remit and the roles and functions that will be taken on by other organisations, in particular the ongoing policy remit of DWP. Clarity is also needed as to which body will be taking the various policy decisions regarding the structure of the Personal Accounts scheme. This could include decisions on the charging structure and the contribution cap. Key decisions about the division of roles and responsibilities need to be taken before the legal status and structure of the Personal Accounts Board is determined.

Objectives for the Personal Accounts Board

Stakeholders are broadly in agreement with the scheme objectives set out for Personal Accounts (discussed in chapter 1 of this paper). They feel that the Personal Accounts Board should have responsibility for delivering solely against the scheme objectives, or against scheme objectives <u>and</u> additional objectives if the Board is given a broad remit. For example, while there is agreement that the Personal Accounts scheme should not impact negatively on existing provision, there are conflicting views among interviewees about whether this ought to be an objective for the Board or whether responsibility for minimising the impact rests with the Government. This conflict reflects different perspectives regarding the Board's role.

Under option 1 (Narrow remit) the objectives for the Personal Accounts Board would be tightly focussed on running the Personal Accounts scheme in the best interests of scheme members. Scheme objectives that the Board would be tasked with delivering would include the 10 scheme objectives but would not include any additional objectives, regarding monitoring employer compliance for example. In this approach, the Board would <u>consider</u> impact on existing provision, and impact would be <u>minimised</u> through scheme design, legislation and regulations that ensure Personal Accounts remains focused on its target group.

Under option 2 (Broad remit) the Board would be charged with delivering the 10 scheme objectives (as in a narrow remit), but would also have additional objectives. Additional objectives could relate, for example, to delivering generic advice and registering exempt schemes. In this approach the Board may have an objective to <u>minimise</u> impact of Personal Accounts on existing provision, not just <u>consider</u> it. This option assumes that the Board will have access to information about existing provision, powers to make design changes that will minimise impact, and is able to manage the potential conflict with its overriding objective to operate the scheme in the best interests of members.

Finally, under option 3 (Hybrid remit) the Board would be charged with delivering the 10 scheme objectives (as in a narrow and broad remit), but would also have additional objectives. Additional objectives may relate to advising Government or managing certain additional functions. In this approach, the Board may have an objective to monitor impact of Personal Accounts on existing provision and provide advice to Government regarding impact. However, ultimate responsibility for minimising impact would rest elsewhere.

Overall, interviewees agree that:

- ***Governing in the best interests of members and beneficiaries*** needs to be the overriding objective for the Personal Accounts Board, any other objectives should be secondary.
- Objectives for the Board need to be refined when division of roles and responsibilities between the Board and other agencies has been decided.
- The Board needs objectives that are SMART[29].
- Some of the scheme objectives outlined in the Personal Accounts White Paper may be in conflict with each other and consideration needs to be given to the ways that the Board can prioritise objectives, especially if it has a broad remit.

There are a number of options for prioritising conflicting objectives. These include charging the Board with an overriding fiduciary duty to scheme members, distinguishing between objectives and issues to 'have regard to', and constructing a two-tier or three-tier objective structure. Some examples of these options are presented in Box 3 below.

Box 3: Dealing with conflicting objectives

Overriding fiduciary responsibility – Thrift Investment Board

Members of the Federal Retirement Thrift Investment Board (Thrift Board) are defined as fiduciaries by the Federal Employees' Retirement System Act of 1986[30].

The Act sets out the fiduciary responsibilities, liabilities and penalties for members of the Board. In particular, these include: ***a fiduciary shall discharge his responsibilities with respect to the Thrift Savings Fund or applicable portion thereof solely in the interest of the participants and beneficiaries***[31]**.**

This means that members of the Thrift Board have an overriding fiduciary responsibility to the scheme's participants and beneficiaries. The same section also lists a number of actions that fiduciaries are not allowed to undertake and actions that they must take steps to prevent.

[29] SMART is an acronym commonly used in project management to mean: Specific, Measurable, Achievable, Relevant, and Time-framed

[30] The Act sets out for 'fiduciary' to also mean the Executive Director and any person who has or exercises discretionary authority or discretionary control over the management or disposition of the assets of the

Box 3 (continued): Dealing with conflicting objectives

Tiered objectives –Gas and Electricity Markets Authority

Ofgem is the UK regulatory body responsible for licensing and monitoring electricity and gas supplies in the British isles and ensuring competition in their markets. It is governed by the Gas and Electricity Markets Authority, which is a body corporate established in legislation.

Ofgem's principal statutory objective is ***protecting consumers.*** It does this by ***promoting effective competition, wherever appropriate,*** and ***regulating effectively the monopoly companies which run the gas pipes and the electricity wires***[32]***.*** The Authority also has other priorities to:

- Help secure Britain's energy supplies by promoting competitive gas and electricity markets - and regulating so that there is adequate investment in the networks.
- Help gas and electricity markets and industry achieve environmental improvements as efficiently as possible.

Take account of the needs of vulnerable customers, particularly older people, those with disabilities and on low incomes[33].

Objectives vs. issues to 'have regard to' - Financial Services Authority (FSA)

The FSA is an independent non-governmental body established in legislation and a company limited by guarantee. It is charged with regulating the financial services industry in the UK. The Financial Services and Markets Act gives the FSA four statutory objectives:

- ***The market confidence objective is: maintaining confidence in the financial system.***
- ***The public awareness objective is: promoting public understanding of the financial system.***
- ***The protection of consumers objective is: securing the appropriate degree of protection for consumers.***
- ***The reduction of financial crime objective is: reducing the extent to which it is possible for a business carried on- (a) by a regulated person, or (b) in contravention of the general prohibition - to be used for a purpose connected with financial crime***[34]***.***

These four objectives are supported by a set of 7 principles of good regulation which the FSA must 'have regard to' when discharging its functions. These relate to: efficiency and economy; role of management; proportionality; innovation; international character; and, competition[35].

Thrift Savings Fund; or a person who is described in specific sections of the Employee Retirement Income Security Act of 1974.

[31] Federal Employees' Retirement System Act of 1986 (5 U.S.C. 8351 and 8401–79) section 8477. PPI emphasis.

[32] Ofgem (2007)

[33] Utilities Act 2000, part I section 1, and part II sections 9 and 13

[34] Financial Services and Markets Act 2000 Part 1 sections 3, 4, 5 and 6

[35] Financial Services and Markets Act 2000 Part 1 section 2 clause 3a-g

Tasking the Personal Accounts Board with a fiduciary responsibility to scheme members, as in the Thrift scheme, sends a clear message (to the Board and scheme members) about the Board's overriding duty and, in essence, where their loyalties lie. A fiduciary responsibility may be most appropriate if the Personal Accounts Board has a narrow remit (option 1).

Tiered objectives offer a hierarchy of importance that may be useful if there are potential conflicts between objectives. This approach could offer the Personal Accounts Board guidance as to their primary and secondary priorities in delivering Personal Accounts, particularly if it is given a broad or hybrid remit (options 2 and 3). Many organisations set tiered objectives in their corporate plans, and the Board may choose to do this as a way of communicating its priorities.

Legislation sets out four objectives and a number of issues for the FSA to 'have regard to'. There is no hierarchy implied in legislation for the FSA's four statutory objectives. However, it is implied that these objectives are of higher importance than the issues that the FSA must 'have regard to'. This approach, of distinguishing between objectives and issues to 'have regard to', may be of particular value if the Board has a hybrid remit (option 3). Under this option the Board may be required to 'have regard to' and advise on wider issues, such as monitoring employer compliance and registering exempt schemes, without having ultimate responsibility for them.

Structure of the Personal Accounts Board
There are various models for governing Personal Accounts and a key question is which model strikes the right balance between independence and accountability.

Independence is important for several reasons. Firstly, investment decisions need to be protected from political interference and made in the best interests of members. If investment decisions are influenced by social policy objectives, this could result in poor investment choices for members. Secondly, independence is important for credibility and maintaining consumer confidence. Past incidents have damaged public trust in both private and state run pensions. The public needs to be confident that the scheme is run by experienced professionals.

While independence is important, no matter how much distance is achieved between the governance of Personal Accounts and the Government, the introduction of Personal Accounts is a Government policy. For this reason, it will be difficult for Government to completely transfer all accountability for the success of the scheme. As such, Government has an ongoing interest in the design and operational elements that will determine the success of Personal Accounts.

In the Regulatory Impact Assessment that accompanied the Personal Accounts White Paper, the Government considered the advantages and costs of three different models for governing Personal Accounts after launch: a body corporate Non-Departmental Public Body (NDPB); an Executive Agency; and a fully independent commercial body[36].

Box 4 gives an example of each type of governance structure explored in the Regulatory Impact Assessment.

Box 4: Model options

1. An Executive Agency[37]

- Part of a Government department, linked to a sponsoring department or a department in itself
- Chief Executive appointed through open competition process, and answerable to a Minister for operational issues
- Staff are civil servants
- Accounts are consolidated with sponsor department

Case study: National Savings and Investments (NS&I) is an executive agency of the HM Treasury. NS&I has two set principles[38]:

- To provide a fully secure place for people to save, backed by Government.
- To provide the Exchequer with a source of funding (ie public borrowing).

The Chancellor of the Exchequer is responsible for: determining the policy and financial framework within which NS&I operates; approving the interest rates and the terms and conditions of NS&I products; appointing the Chief Executive and non-executive members to the NS&I Board; and setting and monitoring key performance targets for NS&I. The Chancellor delegates these responsibilities to the Financial Secretary to the Treasury[39].

NS&I is governed by a Board that currently consists of 6 executive and 3 non-executive directors and 2 representatives of HM Treasury, reflecting the close relationship between NS&I and its sponsor department[40].

[36] DWP (2006 PA RIA) paragraphs 8.24-8.30
[37] Cabinet Office (2005a) and Cabinet Office (2006b)
[38] NS&I (2007)
[39] NS&I (2001) paragraph 2.1
[40] NS&I (2007)

Box 4 (continued): Model options

2. A body corporate/NDPB[41]

- A public body is not part of a Government department, but carries out its function to a greater or lesser extent at arm's length from Government
- Departments are responsible for funding and ensuring good governance of their public bodies
- Secretary of State has ultimate power of dismissal for underperformance
- Parliament can call to account for underperformance, deviation from remit

Case study: The Strategic Rail Authority (SRA) was an independent executive NDPB set up under the Transport Act 2000 to provide strategic direction for Britain's railway industry. Following a fundamental review of the railways, Government stated that …***when the SRA was conceived and legislation first introduced into Parliament, the scale of the industry's problems was not yet apparent, and a leadership model based on influence and persuasion seemed appropriate. In the light of changing circumstances, …this has proved not to be the case …without more direct powers the SRA has found itself in an increasingly difficult position***[42]. The review findings led to eventual winding up of the SRA[43]. This example illustrates the importance of striking the right balance between independence (powers) and accountability (control) in setting up an NDPB, and the powers that the Government can have over an NDPB.

3. Fully commercial model /Chartered or Statutory Public Corporation[44]

- Totally independent of Government, with no clear lines of accountability to Government
- Established in legislation
- Mainly trading bodies, either operating commercially or recovering some or all their costs from fees charged to customers
- Clear legal separation of body from Government
- Staff are employees of the body, not civil servants

Case study: Royal Mail Holdings Plc is a public limited company of which the Government is the sole shareholder. It became a Plc in March 2001 under the Postal Services Act 2000. Royal Mail Holdings is governed by a Board, the Chair of which is a Ministerial appointment. The appointment of members requires the consent of the Minister, and includes 5 Executive appointments. The Government department responsible for the Royal Mail is the Department of Trade and Industry, however, the public financial interest is managed by the Shareholder executive. Although now a private company, the Royal Mail enjoys special protection and restrictions under Government legislation. It is regulated by Postcomm[45].

[41] Cabinet Office (2005a), Cabinet Office (2006a) and Cabinet Office (2006b)
[42] Department for Transport (2004) paragraph 3.23
[43] Department for Transport (2004)
[44] Cabinet Office (2005a) and Cabinet Office (2006b)
[45] Royal Mail (2007) and Cabinet Office (2006)

The Government decided that the NDPB model was the most favourable option because it struck the appropriate balance between independence and accountability. In particular, the Government stated that:

> ***This option would utilise private sector expertise but incorporate clear lines of accountability to Government. In addition to the governance being undertaken by skilled professionals with maximum autonomy from political pressures, the public would be reassured that the Secretary of State for Work and Pensions, as their representative, has the ultimate power to dismiss those responsible for underperformance. The Cabinet Office guidance on public bodies would ensure that the level of Ministerial involvement in appointments would be balanced in such a way as to ensure the independence of the personal accounts board[46].***

An alternative approach would be to establish the Personal Accounts Board as an Executive Agency of the DWP. An Executive Agency has clear reporting lines and accountability to the Secretary of State. However, the Government asserted that it is unlikely that civil servants would have the appropriate skills for managing Personal Accounts and there would be a perceived lack of independence from Government in this option[47].

A third option would be to establish the Personal Accounts Board as a fully independent commercial body. The advantage of this approach is that political independence could be achieved. However, the Government viewed a disadvantage of this approach as being too distant from Government, creating a risk that the focus could move away from the target group. Furthermore, ***although legally it would be independent from Government, [a commercial body] would have been created by statute to deliver a Government objective and any failure is likely to be broadly perceived as being a failure of Government policy[48].***

Non-Departmental Public Body (NDPB)

In March 2006, there were more than 800 NDPBs classified in the UK. These NDPBs fall into four categories reflecting different funding arrangements, functions and kinds of activity: Advisory NDPB (448), Executive NDPB (199), Tribunal NDPB (40) and Independent Monitoring Boards (149)[49].

The Government has opted for the Personal Accounts Board to be a NDPB. It could also be a Company Limited by Guarantee. This would mean the Board would be a legal entity in its own right and would be able to enter into binding contracts. In this model, the Board’s members would be guarantors of Personal Accounts instead of shareholders[50].

Occupational pension schemes in the UK are typically set up as trusts, governed by a Board of Trustees, covered by a trust deed and rules and subject

[46] DWP (2006 PA RIA) paragraphs 8.24-8.26
[47] DWP (2006 PA RIA) Paragraphs 8.27-8.29
[48] DWP (2006 PA RIA) paragraph 8.30
[49] Cabinet Office (2006a)
[50] In contrast, a Publicly Limited Company has shares for sale to public; a Private Limited Company has a sole shareholder; an Unlimited Company has members with unlimited liability.

to provisions of trust law. The Pensions Regulator (TPR) notes two main reasons for occupational pension schemes being trusts[51]:

- ***It makes sure that the pension scheme's assets are kept separate from those of the employer. This is important for the security of members' benefits.***
- ***It is necessary to gain most tax advantages[52].***

It is possible for an NDPB to also be a company run through trust, and this could be a possible model for Personal Accounts. Box 5 shows two examples of the trust model set up.

[51] TPR (2007a)

[52] This is changing from 6 April 2006, but there will still be a legal requirement for most occupational pension schemes to be set up as trusts. – TPR (2007a)

Box 5: Trust model

In common-law legal systems, a trust is an arrangement whereby money or property is owned and managed by one person (or persons, or organizations) for the benefit of another. A trust is created by a settlor, who entrusts some or all of his property to people of his choice (the Trustees). The Trustees are the legal owners of the trust property, but they are obliged to hold the property for the benefit of one or more individuals or organizations (the beneficiary), usually specified by the settlor. The Trustees owe a fiduciary duty to the beneficiaries, who are the "beneficial" owners of the trust property. The trust is governed by the terms of the trust document, which is usually written and in deed form. It is also governed by local law[53].

Case study: The Tate is a Non-Departmental Public Body established under the terms of the Museums and Galleries Act 1992, which describes the powers and functions of the Board of Trustees. Tate is sponsored by the Department for Culture, Media and Sport (DCMS), from which it receives its annual grant from Government.

Tate has full charitable status. By virtue of the Museums & Galleries Act 1992 and as described in Schedule 2 to the Charities Act 1993, Tate is an exempt charity and is thus regulated by statute and by the Department for Culture, Media and Sport. Tate's Trustees have the broad responsibilities of charity Trustees, and can seek advice and guidance from the Charity Commission to inform the exercise of their duties as charity Trustees, and as required by Charity Law.

Under the Museums and Galleries Act, Tate is required to prepare annual accounts, and lay them before Parliament… accounts are audited by the National Audit Office and prepared in accordance with directions issued by the Secretary of State for Culture, Media and Sport with consent of Treasury. Accounts are publicly available[54].

Case study: The Railways Pension Trustee Company Limited (the Trustee Company) is the Trustee of the Railways Pension Scheme and other railway industry pension schemes including the British Railways Superannuation Fund and British Transport Police Force Superannuation Fund. It is responsible both for the administration of the railways pension schemes and the investment and security of their assets.

The principal objectives of the Trustee Company are to ensure that benefits are correctly paid to members when they are due and to safeguard the security of the payment of pensions.

There are 16 directors in total. Eight are 'employer directors', nominated by the employers in the railway industry. The other eight are 'employee directors', nominated by organisations representing members and pensioners of the railways pension schemes. Six of the employee directors are nominated by the employees and two by the pensioners. An electoral college system is used for electing directors. A third of the directors retire by rotation every two years. The term of office is six years[55].

[53] Wikipedia, accessed 17 April 2007

A recent report summarised key findings regarding the advantages and disadvantages of trust law for pension schemes in Ireland[56]. Advantages of trust law for pension scheme regulation and governance centred around:

- Flexibility (in the potential for Trustee discretionary decision-making and of the ability of trust law to adapt to changing circumstances).
- The separation of assets.
- The ability of third party beneficiaries to enforce rights.
- Familiarity with, and general understanding of, the trust concept among Trustees and pension practitioners.

Disadvantages focused on the internal governance of trust-based pension schemes and included:

- Bureaucracy, cost and time involved in administering trust-based schemes (particularly for employers).
- Potential for conflicts of interests among Trustees, particularly for Employer-Nominated Trustees of Defined Benefit (DB) schemes. While industry respondents were most concerned with these issues, no Trustee respondent suggested that significant conflicts had emerged at the Trustee Board.
- Regulatory burden on Trustees. This was seen as a disadvantage among industry respondents but not among most of the Trustees interviewed, many of whom adopted coping mechanisms to deal with the regulatory requirements placed upon them (for example, delegation and range of expertise represented on boards).
- Variation in the abilities of Trustees to perform their functions effectively.

Having considered these and other issues, on balance, the report concluded that trust law should be retained as the fundamental underpin to the occupational pension scheme framework.

The Charities Commission makes clear that Charity law allows Government authorities to set up charities run through a Board of Trustees. ***In practical terms, this means that a charity can be set up to carry out a function of Government where there is a charitable purpose that coincides with the Governmental function… However, for a body to be a charity, it must be independent. By this we mean that it must exist in order to carry out its charitable purposes, and not for the purpose of implementing the policies of a Governmental authority, or of carrying out the directions of a Governmental authority***[57]***.***

[54] Tate (2007)
[55] Railway Pension Scheme (2007)
[56] Pensions Board (2006) paragraph 3.6.2. The Pensions Board report draws on findings from a Masters Dissertation that was completed by Ciaran Lawler, a Department of Social and Family Affairs official, in April 2006. Entitled "Does Trusteeship Contribute Positively to Pension Scheme Governance in Ireland? A Qualitative Analysis"
[57] Charities Commission (2001) paragraphs 3-5

If the Personal Accounts Board is to be set up as a Charitable Trust, this will have implications for the roles and responsibilities it can take on. In particular, it may be possible for the Board to have a narrow remit (option 1), and focus solely on delivering Personal Accounts, however it would seem unlikely that a broad remit (option 2) would be possible because this option would clearly involve implementing Government policies.

Stakeholder representation to the Personal Accounts Board

There are several approaches for representing consumers' and other stakeholders' interests to the Personal Accounts Board. Other stakeholders may include small employers and representatives of existing occupational pension schemes. These options should not be taken to be exclusive as several options could operate together.

- A fiduciary duty to govern in members' best interests (for example, the US Thrift model described in Box 2)
- Objectives related to specific stakeholders' interests
- A legal duty to consult stakeholders (for example, FSA model)
- A consumer panel, and possibly other stakeholder panels, such as small-employers (for example, FSA model)
- An independent consumer body (for example, Postwatch)
- Member and other stakeholder representation on Board (for example, Member-Nominated Trustees).

Box 6 presents some examples of ways to represent consumer interests.

Box 6: Stakeholder representation

Postwatch - independent consumer body

Postwatch is an independent consumer body, created by the Postal Services Act 2000 to replace the Post Office Users' National Council. It is funded by the Department for Trade and Industry and from charges levied against Royal Mail and other postal service providers for complaints handled by Postwatch. ***The role of Postwatch is to protect, promote and develop the interests of all customers of postal services in the UK[58]. Its main role comprises***:

- ***Having responsibility for all issues of customer representation and the handling of complaints about the services of Royal Mail and licensed services of other licensed postal operators. (Government Ministers would expect to be able to refer all complaints to Postwatch and not to be involved in specific complaints, except in the most exceptional of cases involving the national interest, when consulted by Postwatch)***
- ***Providing strategic advice to the regulator (Postcomm) on consumer interests***
- ***Providing advice & information to users of Royal Mail or licensed postal services[59].***

Postwatch monitors complaints and makes representations to Postcomm about remedial action, including the level of penalty to be imposed for a failure to meet agreed service performance standards.

[58] Postwatch (2007)

Box 6 (continued): Stakeholder representation

THRIFT – an Advisory Council

The Federal Employees' Retirement System Act of 1986, which creates the Federal Retirement Thrift Investment Board, sets out for the Board to create an Employee Thrift Advisory Council. The Council is to be composed of 15 members appointed by the Chairman of the Board. Legislation[60] dictates for:

- The organisations to be represented on the Council for example, ***4 shall be appointed to represent the respective labor organizations representing (as exclusive representatives) the first, second, third, and fourth largest numbers of individuals subject to chapter 71 of this title.***
- The Chairman of the Board to appoint one member as head of the Council.
- The term for Council members is 4 years.
- The Council to act by resolution of a majority of the members.
  - The Council to a***dvise the Board and the Executive Director on matters relating to: investment policies for the Thrift Savings Fund; and the administration of [the fund]; and perform such other duties as the Board may direct with respect to investment funds...***

FSA – duty to consult and statutory panels

The Financial Services and Markets Act 2000, which establishes the Financial Services Authority (FSA), sets out for the FSA to ***make and maintain effective arrangements for consulting practitioners and consumers on the extent to which its general policies and practices are consistent with its general duties.***

The Act goes on to state that consultation arrangements must include:

- ***The establishment and maintenance of a panel of persons (to be known as "the Practitioner Panel") to represent the interests of practitioners***
- ***The establishment and maintenance of a panel of persons (to be known as "the Consumer Panel") to represent the interests of consumers.***

The FSA must also have regard to any representations made to it by the Consumer Panel and / or the Practitioner Panel[61].

- ***The Practitioner Panel has no directly employed staff, but is supported by the staff on the FSA's Independent Panels Secretariat. The Panel has requested no budget from the FSA; ad hoc expenditure, such as the cost of the Annual Report and of the Survey of Regulated Firms, is agreed with and paid for by the FSA***62***.***
- ***The Consumer Panel has been set up and funded by the FSA and is supported by a small secretariat within the FSA's offices***[63]***.***

Consumer groups have noted that the support of the Financial Services Consumer Panel was important in securing improvements to the way the FSA operates (such as undertaking more mystery shopping) and its decisions on the content of its rulebook. The Consumer Panel particularly benefited from a detailed knowledge of FSA work and access to information.

[59] Department for Trade and Industry (2007)

[60] Federal Employees' Retirement System Act of 1986 Title 5, 8473

[61] Financial Services and Markets Act 2000, Part I clauses 8, 9, 10, 11

Stakeholders are broadly supportive of the Personal Accounts Board having statutory duties to:

- Have an overriding fiduciary duty to scheme members
- Consult stakeholders (including in particular scheme members and employers)
- Establish a specific consumer panel (similar in structure to that of the FSA), which the Board must have regard to.

Overall, interviewees support a consumer panel model (as seen in the FSA, for example) over an independent body model (such as Postwatch) for representing consumer interests in Personal Accounts. They acknowledge that while a number of consumer representative bodies already exist and are active in the Personal Accounts debate, it is important for a consumer panel to be in place to represent the interests of scheme members and prospective members. This could serve as an important sounding board for Personal Accounts policy decisions in relation to the impact that decisions will have on the members of the scheme. It could add independent scrutiny and advice and ensure the direct involvement of key representative stakeholders and, therefore, the consumer voice. They feel this is particularly important during the set up phase when there are likely to be many detailed consultation papers and issues to consider.

Some advantages of a consumer panel over an independent consumer body that were discussed by interviewees are listed below.

- Potentially closer relations between panel and Board / parent body make it more likely for the panel and Board to work through disagreements internally rather than through publishing conflicting views. It may also provide the panel with earlier access to key policy statements of the Board.
- Shared resources and accommodation could achieve economies of scale and could potentially result in closer informal links between personnel.
- The panel model could also be used to represent other stakeholders' interests. For example, through the establishment of a small-employer panel.

Some disadvantages of a consumer panel over an independent consumer body that were discussed by interviewees are listed below.

- Shared resources and accommodation may mean the panel is not perceived to be truly independent.
- Potentially narrower remit for the panel and closer control of its activities by the Board compared to a fully independent body.
- Potentially closer relations between panel and Board / parent body could lead to <u>over</u> consultation of the consumer panel regarding less relevant issues.

---

[62] Financial Services Practitioner Panel (2007)
[63] Financial Services Consumer Panel (2007)

Interviewees are very reluctant for the membership of any stakeholder panels to be as strictly dictated in legislation as is the case for the Employee Thrift Advisory Council. They feel that this level of specificity may become irrelevant over time and may result in a lack of flexibility for the Board to achieve its goals.

Membership of the Personal Accounts Board

All interviewees agree that, between them, the members of the Personal Accounts Board should have a range of expertise and experience in running pensions schemes and knowledge of the target group (including employers and members/prospective members). The areas of knowledge and expertise include:

- Investment management
- Procurement and contract management
- IT and systems administration
- Customer service
- Information and advice
- Communications and marketing
- Consumer issues, for example, financial capability and consumer protection
- Employer issues.

Interviewees feel it is important for the Board to include people with experience relevant to specific groups (particularly members and employers). However, they are generally reluctant for Board members to be appointed specifically as representatives of certain stakeholder interests, with the exception of member and consumer, and employer representation. They feel that this approach could result in Board members representing specific constituents rather than operating effectively as a unified body corporate. The major exceptions relate to scheme member representation and employer representation.

Several interviewees support appointment of member representatives to the Board, and call for the proportion of member representatives on the Board to be set in legislation. They argue that while the interests of other stakeholders may conflict with the overriding goal of Personal Accounts being run for its members, this is not a concern for member representatives. In their view, specific member and consumer representation would ensure that there is appropriate skills and knowledge of consumer issues on the Personal Accounts Board. It would also reassure members that their interests were placed at the heart of the Personal Accounts scheme. One option would be to adhere to Member-Nominated Trustee (MNT) rules that are currently in place for occupational pension trust schemes (see Box 7).

Box 7: Member representation on the Board

Trust law: Member-Nominated Trustees

Occupational pension schemes in the UK are typically established in trust, governed by a Board of Trustees and are subject to trust law. Many Trustee duties arise from law. These are 'fiduciary' duties: meaning that when Trustees carry them out, they must always act in the best interests of the scheme beneficiaries. Trustees must also act impartially, in line with the trust deed and rules, and prudently, responsibly and honestly[64]. The Pensions Act 2004 requires that ***the Trustees of an occupational trust scheme must secure:***

- ***That, within a reasonable period of the commencement date, arrangements are in place which provide for at least one-third of the total number of Trustees to be Member-Nominated Trustees, and***
- ***That those arrangements are implemented[65].***

The Pensions Regulator (TPR) is required by legislation to issue a number of codes of practice; several of these codes relate to the obligations and duties of occupational pension scheme Trustees and guidance for appointing Member-Nominated Trustees (MNTs). MNTs are Trustees of an occupational trust scheme who:

Are nominated as a result of a process which must involve at least:

- ***all the active members of the scheme or an organisation that adequately represents them; and***
- ***all the pensioner members of the scheme or an organisation that adequately represents them; and***

Are selected by some or all of the members of the scheme[66].

The UK Government supports the appointment of Member-Nominated Trustees (MNTs) to trust boards that govern occupational pensions, and has introduced rules and regulations in recent years to require them[67]. MNTs can bring a range of experiences and knowledge about scheme members' needs to a trust board. However, consideration needs to be given to whether the objectives for requiring MNTs on the trust boards of occupational pension schemes remain relevant in the context of Personal Accounts.

Several interviewees argue that employers' interests may require special representation to the Personal Accounts Board. They point out that the specific group of employers that is likely to use Personal Accounts will be mostly made up of small and micro employers. These employers have interests and needs that may differ from larger or multinational employers, and they are not a homogenous group. Representation of employers' interest should acknowledge these issues and any consultation with employers needs to be carefully managed and targeted to include small and micro employers.

[64] TPR (2007a)
[65] Pensions Act 2004 Part 5 clause 241
[66] The Pensions Regulator (2007) paragraph 14
[67] The original rules were introduced on 6 April 1997 to give members a say in the selection and appointment of trustees. Those rules were amended with effect from 6 April 2006. (Pensions Advisory Service 2007)

Accountability of the Personal Accounts Board

Ultimately, the Personal Accounts Board will be accountable for running the scheme in the best interests of members and within the framework set by Government. This means that it will need to abide by rules that govern how the body should act (these will depend on the legal status of the Personal Accounts Board and could include, for example, guidelines for Public Appointments and /or trust law) and report through established mechanisms to the appropriate authorities and agencies.

Transparency is a key term used by nearly all interviewees with regard to accountability. They feel strongly that the Personal Accounts scheme needs to be open for scrutiny from the pensions industry, consumer watchdogs, member representatives and anyone else who has an interest.

Formalised reporting lines will need to be clarified for the Personal Accounts Board to be accountable to the Government, to the public, and to its members.

The Government in general and the DWP specifically will be the stewards of the legislation that establishes the Personal Accounts scheme and Board. As such, the Personal Accounts Board will need to be accountable to DWP Ministers for the running of the Personal Accounts scheme. The degree of closeness between these bodies will depend on the roles the Personal Accounts Board takes on.

Interviewees generally support the Personal Accounts Board being accountable to the public through an annual report that is laid before Parliament. They feel that this suggests greater independence from Government than if the Board were to report to the Secretary of State. This approach also has the added advantage of potentially stimulating an annual debate in the house regarding Personal Accounts. They also want the Personal Accounts scheme to be answerable to Select Committees and the Chief Executive to be answerable to the Public Accounts committee as Accounting Officer. Other accountability mechanisms include National Audit Office (NAO) scrutiny of accounts, cost effectiveness analysis and a duty to consult[68].

The Personal Accounts Board will need to be answerable to members for the overall operation of the scheme and for investment decisions that affect the performance of funds. The Swedish Orange envelope was mentioned by several interviewees as a useful model for reporting to members[69]. Interviewees want Personal Accounts members to receive individualised annual statements that include information about the performance of their Personal Account, a forecast of what they can expect to receive from their Personal Accounts when they retire <u>and</u> a state pension forecast.

[68] See Box 11 in Chapter 3 for an example of consultation requirements.
[69] Box 2 in Chapter 2 contains more information about the Swedish PPM

Box 8: Case study - Reporting to members

The "Orange Envelope" is a pension forecast sent annually to Swedish residents by the Premium Pensions Authority (PPM) and Försäkringskassan, the Swedish Social Insurance Agency. The Orange Envelope literally comes through the post in a distinctive orange-coloured envelope.

In your annual statement, which is sent to you in the orange envelope every year, you will be notified of how much money you have earned to date for your national basic pension. And how much you can be assumed to receive every month when you become a pensioner. The calculation of your future pension is based on you having the same income until you start to draw your pension as you have today. You can also make your own forecast on www.forsakringskassan.se[70].

The Orange Envelope seeks to assist savers to make decisions about yearly contributions, to understand their total savings and to forecast at different ages the value of PPM funds[71].

Other mechanisms for ensuring accountability to members could include: whistle blowing rules, establishment of a consumer 'watch dog' body, oversight by a regulator and, ultimately, members could opt out of Personal Accounts.

Monitoring, evaluation, and success criteria for the Personal Accounts Board

In many ways the success of Personal Accounts will not be known for many years, when it is possible to see whether making available a low-cost pension saving scheme with an employer contribution has improved pensioners' financial position in retirement. As such, ongoing monitoring of success indicators will be important for identifying whether the scheme is on track to achieve its goals[72]. Some success indicators relate to:

Member behaviour

- Take up rates
- Persistency
- Contribution levels

Employer behaviour

- Auto enrolment
- Compliance
- Contribution levels

Scheme delivery

- Investment performance

[70] Försäkringskassan (2007) page 3

[71] Lender (2006)

[72] The Inland Revenue of New Zealand commissioned the Tax Policy Centre to conduct a review of literature on saving incentives that is relevant for gauging the probable outcomes of KiwiSaver and designing ways to measure its outcomes. That report may be of interest to the Delivery Authority, the Board and the Government as they design scheme evaluation.

- Appropriateness of contracts
- Charge levels
- How closely charge levels relate to the costs of Personal Accounts
- Customer satisfaction
- Regular and understandable communications to members and employers
- Solvency – resilience of scheme finances
- Complaints levels and trends (members, employers and any other stakeholders)
- Risk identification and risk management procedures
- Adherence to relevant codes of practice
- Cost effectiveness

Policy performance and scheme design

- Impact on existing high quality provision – levelling down
- Rates of new pension savers
- Rates of additional saving
- Appropriateness of scheme for target group.

Only a subset of these success factors may be directly within the control of the Personal Accounts Board. As such, interviewees discussed the success of Personal Accounts in relation to two areas: Board performance; policy and design success.

Clearly, these two evaluation areas are not mutually exclusive. It is reasonable to assume that in many ways the success of the Board will be judged by the success of the scheme. However, the Board is likely to manage the Personal Accounts scheme within a framework set by Government and the Delivery Authority. For this reason, it will be important to identify separately any shortfalls that result from poor management and oversight, versus those shortfalls that result from poor scheme design or Government policy decisions.

Once the remit of the Board has been established, it will be possible to determine the extent to which the Board will have ultimate control over, and responsibility for, scheme success and to what extent responsibility may fall with other agencies.

In relation to evaluating the Board's success, interviewees are generally in agreement that:

- The Board's performance should be evaluated against its objectives, which will either be the same as the objectives of the Personal Accounts scheme or will include additional objectives.
- Evaluation criteria should not be set until the scheme objectives have been set and the responsibilities of different agencies, including the Personal Accounts Board, have been clearly identified.

Interviewees have mixed views about whether, for example, the Board should have targets to meet regarding participation levels. Some interviewees argue that it is impossible to know what the targets should be, given that Personal Accounts is a new policy and employer and employee behavioural responses are largely unknown. On the one hand, participation targets could create unintended incentives for the Board to expand its catchment beyond the target group. On the other hand, if Personal Accounts are to succeed, it is important that there is sufficient participation amongst the target group. Interviewees generally agree that if any targets are set, for example, regarding participation rates, then the Government should be responsible for setting them.

Some interviewees suggest mechanisms for evaluating the Board's governance performance could include: self-evaluation, performance evaluation of individual members by the Secretary of State, and external cost effectiveness evaluation (by the National Audit Office, for example).

In relation to evaluating the policy and design success, interviewees note that evaluation and monitoring criteria and indicators must be considered throughout the scheme design phase. This is so that IT systems are capable of capturing appropriate information. Interviewees also point out that they see value in further discussion regarding how success will be determined in the context of Personal Accounts.

Chapter 3: Delivery Authority

The Government's proposal

Advisory phase: The Pensions Bill has passed the Commons Committee stage and has recently passed a third reading in the House of Commons. This Bill legislates for the set up of a Personal Accounts Delivery Authority with advisory powers.

The Bill sets out for the advisory Delivery Authority to ***do anything it thinks appropriate for preparing for the implementation of, or for advising on the modification of, any relevant proposals about personal account***[73]**.**

In this initial stage, the Delivery Authority's remit will be limited to providing advice and recommendations on the commercial and operational impact of options, and advising on the design of the commercial strategy.

The Bill provides for the advisory Delivery Authority to aim to have between 3-9 members, including a Chairman, Chief Executive (CE), non-executive and executive members. It also sets out in detail the Authority's appointments process, including members' terms and conditions.

- The Chairman is to be appointed by the Secretary of State.
- The first non-executive members are to be appointed by the Secretary of State, subsequent non-executive members to be appointed by the Authority with approval from the Secretary of State.
- The first Chief Executive (CE) is to be appointed by the Secretary of State, subsequent CEs to be appointed by the Chairman and non-executive members, with approval from the Secretary of State.
- The first executive members are to be appointed by the Secretary of State, subsequent executive members to be appointed by the Chairman and non-executive members, with approval from the Secretary of State.

The advisory Delivery Authority will be required to have due regard to guidance relating to the management of public bodies and principles of good corporate governance. It will report on an annual basis to the Secretary of State, who will lay a copy of the Delivery Authority's annual report and accounts before Parliament.

The Secretary of State will be able to issue guidance to the Delivery Authority about the discharge of its function, and the Delivery Authority must have regard to this. The Delivery Authority will receive grants from the Secretary of State out of money provided by Parliament. The advisory Delivery Authority will not have powers to borrow money.

The Secretary of State will have powers to wind up the Delivery Authority if its function is no longer required[74].

[73] Pensions Bill 2006 Part 3 clause 19

The Government's proposal

Executive powers: The Government intends to introduce a second Pensions Bill in autumn 2007 that will extend the remit of the advisory Delivery Authority and provide executive powers allowing it to take responsibility for setting up the Personal Accounts scheme. This includes powers to enter into formal negotiations, finalise contracts and manage the development of the delivery systems and structures.

In the Personal Accounts White Paper, the Government sets out that the executive Delivery Authority is likely to be responsible for:

- ***Procurement – commercial contracting that will create the infrastructure for Personal Accounts.***
- ***Project management – responsibility for programme delivery and management of delivery against targets.***
- ***Design and development of the investment strategy – agreeing the statement of investment principles, determining the level of choice available to members, designing the default fund and contracting with fund managers.***
- ***Engaging with stakeholders – working with stakeholders across Government, industry, employers and consumers to ensure that delivery remains focused on the objectives for the target group.***
- ***Marketing and communications – designing and developing information and marketing strategies.***
- ***Setting up the most effective arrangements to ensure constructive engagement with members***[75]***.***

The paper also sets out the Government's intentions for the Delivery Authority to be subject to the ***normal scrutiny and accountability arrangements, providing an annual report and accounts to the Secretary of State for Work and Pensions, who will lay these before Parliament***[76]***.***

Advisory Delivery Authority

In the RIA for the White Paper ***Personal Accounts: a new way to save,*** the Government considered three options for ensuring the Delivery Authority could continue its work as seamlessly as possible in the lead up to Royal Assent of the second Pensions Bill.

1. Retain the Personal Accounts Delivery Authority as an advisory body only.
2. Extend the remit of the advisory Delivery Authority to give it executive decision-making powers.
3. Establishing the live-running governance body [Personal Accounts Board] following Royal Assent of the second Bill[77].

---

[74] Pensions Bill 2006 Part 3 and Schedule 6
[75] DWP (2006 PA) paragraph 3.12
[76] DWP (2006 PA) paragraph 3.14
[77] DWP (2006 PA RIA) pages 140-142

In short, the Government chose Option 2 because it offered the greatest level of independence from Government that could be achieved in the shortest time period. Setting up the Personal Accounts Delivery Authority as an advisory body in the first instance enables the Government to formally recruit industry expertise as they continue to take key decisions in the designing of Personal Accounts. It is envisaged that the advisory Delivery Authority will work alongside DWP officials as they prepare legislation for the second Pensions Bill and as they set up the framework for establishing Personal Accounts.

Background research for this discussion paper did not focus specifically on the roles and objectives of the Delivery Authority in its advisory phase because the Pensions Bill that sets out the role and objectives of the Delivery Authority in its advisory phase is already close to becoming enacted. However, a number of stakeholders commented on the advisory body in interviews and in their responses to the DWP's Personal Accounts White Paper. In particular, they commented that they expect to see:

- Strong continuity of personnel and structure between the advisory and executive Delivery Authority phases.
- Increasing independence from DWP and the Government generally as the Personal Accounts Delivery Authority moves from an advisory body to a body with executive powers.

The advisory Delivery Authority will be responsible for providing advice to Government as they take key decisions about the design of Personal Accounts. Interviewees suggest that the types of tasks the advisory Delivery Authority will need to undertake in order to do this include:

- Identifying areas to commission research that will inform the design process.
- Mapping the landscape of existing provision and identifying the boundaries for the Personal Accounts target group.
- Developing a detailed understanding of the existing fund management market and of Personal Accounts position within this.
- Conducting consumer research to map the needs of the target group.

The rest of this chapter focuses on the Delivery Authority in its executive phase.

Roles and responsibilities of the executive Delivery Authority

Interviewees agree that setting up the Personal Accounts scheme will be a large task. However, they have mixed views about the powers and remit that the executive Delivery Authority should have, especially as many decisions that will influence the final scheme design, and its impact on existing provision, are yet to be finalised. There are a number of options for the scope of the remit of the Delivery Authority in its executive phase.

Option A: Narrow remit
One view is that the executive Delivery Authority should have a very narrow remit. In this approach, the Delivery Authority would focus solely on designing systems and procuring services for running the Personal Accounts scheme when it is launched. Some other agency/agencies would be responsible for managing development of other functions.

Option B: Broad remit
An opposing view is that the executive Delivery Authority should take on a very comprehensive remit. In this approach, the Delivery Authority would be responsible for designing and procuring all systems and functions that result from the introduction of the Personal Accounts policy as a whole. This would include the set up of the Personal Accounts scheme and other functions like, creating a test for exempt schemes and monitoring impact on existing provision, designing a pension saving monitoring framework, identifying which agency will be responsible for each aspect of pension delivery and monitoring when the scheme goes live.

Option C: Hybrid remit
A third view sees the executive Delivery Authority take on a remit that is a hybrid of the above options. The Delivery Authority would focus on designing systems and procuring services for running the Personal Accounts scheme when it is launched (same as the narrow remit). The Delivery Authority would also provide advice to Government regarding wider issues related to Personal Accounts (for example, advice regarding the design of the exempt scheme test), and possibly more general saving and pension issues. But unlike option B (Broad remit), the Government would retain responsibility for making policy decisions and setting up new processes in the wider areas.

Several interviewees recognise the advantages of having one agency oversee all aspects of implementing the Personal Accounts policy and scheme (for example, more focused consultation, better integrated systems). However, nearly all of the people who took part in the interviews stress that setting up a national pension savings scheme is an ambitious undertaking, and they warn that there are risks involved with giving the Delivery Authority too much to do (for example, diluted focus that results in non-delivery of Personal Accounts).

The Olympic Delivery Authority (ODA) provides one example of a NDPB with executive powers that is established in legislation. Box 9 outlines the powers that are provided to the ODA in legislation to facilitate it in achieving its objectives.

Box 9: Case study – Executive powers and procurement processes

The Olympic Delivery Authority (ODA) is a Non-Departmental Public Body with executive powers established in legislation to ensure delivery of the new venues and infrastructure for the 2012 Olympic Games and the legacy that will follow. The London Olympic Games and Paralympic Games Act 2006, which establishes the ODA, sets out for the ODA to ***take any action that it thinks necessary or expedient for the purpose of:***

a) preparing for the London Olympics,

b) making arrangements in preparation for or in connection with the use or management before, during or after the London Olympics of premises and other facilities acquired, constructed or adapted in preparation for the London Olympics,

c) ensuring that adequate arrangements are made for the provision, management and control of facilities for transport in connection with the London Olympics[78].

The ODA has responsibility for: All Olympic Park infrastructure and site preparation including the Olympic Village, building new permanent venues, the building of relocatable arenas, Olympic transport projects, permanent works to existing sports venues, and Olympic Park venue legacy conversion[79]. To fulfil these responsibilities, the Act gives the ODA powers to:

- Buy, sell and hold land.
- Make arrangements for building works, and the installation of transport and other infrastructure.
- Develop an Olympic Transport Plan, with which other agencies must co-operate, and to make orders regulating traffic on the Olympic Road Network.
- Be established as the local planning authority for any particular area, subject to a separate statutory process, to make arrangements for the formation of bodies corporate and to acquiring interests in bodies corporate or other undertakings.
- With the consent of the Secretary of State, give financial assistance in connection with anything done or to be done by another person for a purpose mentioned in the Act[80].

Several agencies have different roles in relation to delivering the 2012 Olympics. In particular,

- The ODA is to deliver the new venues and infrastructure ready in time for 2012.
- The London 2012 Organising Committee is to organise, publicise and stage the 2012 Games. It is to also report directly to the International Olympic Committee on 'London 2012'.
- The Olympic Board (made up of the Olympics Minister, the Mayor of London, BOA Chairman and Organising Committee Chair) is to provide ***oversight, strategic coordination and monitoring of the total 2012 Games project, ensuring the delivery of the commitments made to the***

[78] London Olympic Games and Paralympic Games Act 2006 clause 4
[79] London 2012 (2007)
[80] London Olympic Games and Paralympic Games Act 2006 clause 4

International Olympic Committee when the Games were awarded to London, and a sustainable legacy from the staging of the Games[81].

- The British Olympics Association (BOA) selects the British Olympic team and is to lead and prepare the nation's athletes at the Olympic Games. It seeks to secure UK Olympic and Paralympic success in the Games; promote, through sport, the Olympic ideals across the 2012 programme; to deliver a viable London Olympic Institute[82].

The powers and responsibilities awarded to the ODA reflect their specific remit and the multi-agency delivery model chosen for the 2012 Olympics project. If a similar model were adopted for the setting up of Personal Accounts, one might expect the executive Delivery Authority to have a narrow remit. Under this approach, an oversight body may also be required.

In essence, interviewees expect the executive Delivery Authority to build a scheme that works for its members, is delivered on time and at low cost. They are clear that to achieve this, the executive Delivery Authority will need to be responsible for carrying out set up tasks directly related to the design and procurement of Personal Accounts. However, they are less clear about the executive Delivery Authority's role in areas that concern existing provision (for example, setting the exempt schemes test), outstanding policy decisions and setting the investment strategy.

The specific set up tasks will include:

- Procuring services for administering Personal Accounts
- Procuring services for managing funds
- Procuring services for developing IT infrastructure
- Putting in place a system for collecting employer and employee contributions (many stakeholders think that HMRC is the obvious agency for collecting contributions and that the Delivery Authority would need to work with them to make this happen)
- Designing and implementing a communications strategy that prepares employers and employees for the launch of Personal Accounts
- Testing IT and administrative systems in advance of the launch of Personal Accounts
- Developing a financial strategy for repaying set up loans.

One view is that the executive Delivery Authority will have a large enough task setting up a national pension scheme without also being responsible for designing and implementing set up of processes for existing provision (for example, designing the exempt scheme test and procuring a provider to register exempt schemes). An opposing view sees value in the executive Delivery Authority being responsible for overseeing management in all these areas because it is likely to include people with relevant expertise that may not be available among civil servants. Overall, interviewees are less reluctant for

[81] London 2012 (2007)
[82] British Olympics Association (BOA) (2007)

the executive Delivery Authority to have a role in designing and managing the set up of processes for existing provision than they are for the Personal Accounts Board to have a role in this area.

With regard to policy decisions, interviewees do not feel that the executive Delivery Authority should have powers to take decisions regarding key policy issues, such as the level of the employer contribution, and sees these as decisions for Government. However, the executive Delivery Authority should have a role in providing advice to Government regarding outstanding policy issues. Overall, interviewees feel that this remit should be limited to policy issues for Personal Accounts and should not creep into other areas of state pension reform (for example, State Pension Age and Basic State Pension).

The investment strategy for a Defined Contribution (DC) occupational pensions scheme is typically set by the Board of Trustees who will ultimately be responsible for reviewing and managing it and accountable for investment decisions. In the December White Paper, the Government suggested that the executive Delivery Authority would set the investment strategy, with advice from an investment subcommittee[83]. Interviewees suggested that the investment subcommittee could carry over to the Personal Accounts Board, thus ensuring continuity of relevance and accountability.

Objectives for the executive Delivery Authority

Some stakeholders are very concerned that detailed objectives have not been laid out for the Delivery Authority in its advisory phase. These stakeholders would have liked to see objectives set in legislation. They see a risk of mission creep that could result in the Delivery Authority's task becoming unwieldy.

Other stakeholders are quite comfortable that the current Pensions Bill does not include objectives for the Delivery Authority in its advisory or executive phases. They argue that the detailed tasks of setting up Personal Accounts are not known at this early stage and they are reluctant to 'tie the hands' of the Delivery Authority when flexibility may be needed.

Whether they are in legislation or not, interviewees generally agree that any objectives that are set for the Delivery Authority in its advisory and executive phases need to be closely focused on Personal Accounts. Neither body's remit should be allowed to drift into other policy areas, such as state pension reform. Furthermore, interviewees suggest that the Delivery Authority should be required to have regard for the objectives set out for the Personal Accounts Board and the Personal Accounts scheme, even though the specific objectives for each body may differ to reflect their different roles.

Interviewees also point out that the executive Delivery Authority will make design and contract decisions that the Board will take over and manage. As such, they will need to have regard for any codes of practice and laws that the

[83] DWP (2006 PA) paragraph 5.12

Board will be bound by. As such, it is important for the legal status of the Personal Accounts Board to be determined as early as possible so that the Delivery Authority can design and build a scheme that is appropriate for the environment it will operate in. For example, if the eventual Personal Accounts Board is set up as a trust it will be bound by trust law.

Structure of the executive Delivery Authority
Interviewees expect that the structure of the executive Delivery Authority will closely resemble that of the advisory Delivery Authority, ie with a Chairman, executive and non-executive members, a Chief Executive and provision to set up committees and subcommittees.

While interviewees expect close relationships and considerable overlap of personnel between DWP and the advisory Delivery Authority (in the form of secondments for example) they expect greater distance between the two organisations as the Delivery Authority takes on executive powers. This is seen to be important for building credibility and ensuring protection from political interference.

The Pensions Bill sets out for the advisory Delivery Authority to be able to form committees and subcommittees[84]. Interviewees suggest that these committees could cover a number of areas, including:

- Investment and fund management strategy
- Marketing and communications
- Information and advice
- IT and Administrative systems
- Customer service
- Legal
- Research and information about the target group / prospective members
- Remuneration of executive members
- A specific consumer panel / consumer interest committee.

Interviewees feel that it is important for these areas to be considered throughout the design and implementation process, whether through setting up focused committees or through some other mechanism.

Stakeholder representation on the executive Delivery Authority
Stakeholders commended the DWP for the open consultation and engagement process that the department has carried out thus far with regard to pension reform. They want to see this open and consultative approach continue through the advisory and executive Delivery Authority phases.

The majority of interviewees stress the importance of ensuring that members' interests remain primary throughout all phases of Personal Accounts design. This is seen as particularly important if the Delivery Authority was tasked with taking policy decisions regarding the structure of the Personal Accounts

[84] Pensions Bill 2006 Schedule 6 Part 2

scheme. The options for representing members' interests are the same for the Delivery Authority as for the Personal Accounts Board and are listed in the previous Chapter.

Membership of the executive Delivery Authority
Broadly speaking, stakeholders want to see the Personal Accounts scheme designed and set up by people with experience running large multi-employer occupational schemes <u>and</u> who have experience of the Personal Accounts target market. They expect there to be considerable continuity of personnel between the advisory and executive Delivery Authority and, for this reason, several interviewees stressed the importance of initial appointments to key positions.

Stakeholders want to see:

- Dynamic leadership through an independent Chairman with financial sector expertise, a working understanding of the target group of potential members, knowledge of consumer issues, and with personal attributes such as enthusiasm, drive and resilience.
- A range of expertise represented in non-executive and executive members (including marketing and communications; customer service, information and advice; IT and systems design; investment and fund management; procurement and project management; experience working with small and micro employers; a working understanding of the interests and needs of the target group; knowledge of consumer issues such as financial capability and consumer protection).
- Non-executive and executive members with a range of experiences relevant to the target group of future members and employers.
- Consumer/future member representatives appointed as non-executives.

Stakeholders also stress that remuneration of key personnel needs to reflect industry standards so that the Delivery Authority is able to recruit people with high levels of expertise and experience.

Interviewees generally support the appointment process set out in the Pensions Bill[85], ie for the Secretary of State to make initial appointments and to set terms and conditions for executive and non-executive personnel. However, some interviewees support this option simply because they see it as being the most practical rather than the most ideal. Given the importance of initial appointments, interviewees suggested the following mechanisms for enabling stakeholder input in this process:

- Key stakeholders participate in the appointments panel.
- Public scrutiny of appointments through a parliamentary committee process, which could be undertaken by the Work and Pensions Committee (this could be a similar process to that used by the Treasury

[85] Pensions Bill 2006 Schedule 6 and Pensions Bill Explanatory Notes 2006 Schedule 6 Part I

Committee to scrutinise appointments to the Monetary Policy Committee of the Bank of England, which is described below).

The Office for the Commissioner for Public Appointments (OCPA) regulates public appointments and publishes a Code of Practice that sets out the regulatory framework for the public appointments process. It aims to ***provide departments with a clear and concise guide to the steps they must follow in order to ensure a fair, open and transparent appointments process that produces a quality outcome and can command public confidence***[86].

The Pensions Bill (2006) has set out for the advisory Delivery Authority to have regard to ***such general guidance concerning the management of the affairs of public bodies as the Authority thinks appropriate***[87], which could conceivably include OCPA appointment guidelines. The Treasury Select Committee process for scrutinising public appointments is seen by at least one interviewee as a good model for achieving the OCPA's principle of transparency. The OCPA principles for ministerial appointments and the Treasury Select Committee scrutiny process are discussed in Box 10.

[86] OCPA (2005) pages 5-6
[87] Pensions Bill (2006) Part 3 paragraph 20 clause 1a

Box 10: Appointment process

The Office for the Commissioner for Public Appointments (OCPA) presents the following seven principles covering all ministerial appointments to the boards of executive and advisory non-departmental public bodies:

1. ***Ministerial responsibility: The ultimate responsibility for appointments is with ministers.***
2. ***Merit: All public appointments should be governed by the overriding principle of selection based on merit, by the well-informed choice of individuals who through their abilities, experience and qualities match the need of the public body in question.***
3. ***Independent scrutiny: No appointment will take place without first being scrutinised by an independent panel or by a group including membership independent of the department filling the post.***
4. ***Equal opportunities: Departments should sustain programmes to deliver equal opportunities principles.***
5. ***Probity: Board members of public bodies must be committed to the principles and values of public service and perform their duties with integrity.***
6. ***Openness and transparency: The principles of open government must be applied to the appointments process, its working must be transparent and information provided about the appointments made.***
7. ***Proportionality: The appointments procedures need to be subject to the principle of proportionality, that is they should be appropriate for the nature of the post and the size and weight of its responsibilities[88].***

Case study: Treasury Select Committee scrutiny of appointments

A core task of the Treasury Select Committee is to scrutinise major appointments made by the department. ***Since 1998, the Treasury Committee has led the way in this area, holding hearings with all new appointees to the [Monetary Policy Committee] of the Bank of England.*** The process involves sending a questionnaire to appointees to gain information about their personal independence and professional competence, which is publicly available. The Committee then holds an appointment hearing where questions are focused on issues with a bearing upon those criteria[89].

Accountability mechanisms for the executive Delivery Authority

The Pensions Bill sets out that the advisory Delivery Authority will be accountable to the Secretary of State through an annual report that will be laid before Parliament[90]. Interviewees suggest that the same accountability process should continue for the Delivery Authority when it takes on executive powers.

They also suggest that given the short time frame for delivering Personal Accounts, additional measures may be required. Two suggestions are for more regular reporting in the lead up to the 'go live' date, and for missed deliverables to trigger an ad hoc report.

[88] Office for the Commissioner for Public Appointments (OCPA) (2005) page 9

[89] House of Commons (2007) for more information and Bank of England (2007) for an example of a completed questionnaire

[90] Pensions Bill 2006 Schedule 6 Part II clause 17

Accountability lines raise the question of what powers the Secretary of State and Parliament should have to intervene if the Board, or scheme, is underperforming. Interviewees suggested that some options could include replacing personnel, making additional funds available to the Board[91], and making additional resources (for example, personnel) available to the Board.

Several interviewees stress that transparency is key to accountability. They expect the Delivery Authority to facilitate public scrutiny by publishing annual reports and accounts. This is particularly important for identifying the extent to which the Personal Accounts scheme is self funding.

Interviewees also expect the Delivery Authority to be open about its thinking process when making key decisions in both the advisory and executive phases. The Cabinet Office offers guidance on consultation for public bodies[92], and some bodies, such as the Financial Services Authority, have specific requirements set in legislation (see Box 11).

Box 11: Case study - Transparency

The Financial Services and Markets Act 2000 gives the Financial Services Authority (FSA) powers to issue a code for determining whether certain behaviour amounts to market abuse. The Act also sets out requirements for the FSA to undertake a number of steps before issuing a code[93].

Before issuing a code… the Authority must publish a draft of the proposed code in the way appearing to the Authority to be best calculated to bring it to the attention of the public. The draft must be accompanied by

- ***a cost benefit analysis; and***
- ***notice that representations about the proposal may be made to the Authority within a specified time.***

Before issuing the proposed code, the Authority must have regard to any representations made to it in accordance with [the above subsection]. If the Authority issues the proposed code it must publish an account, in general terms, of

- ***the representations made to it…and***
- ***its response to them.***

If the code differs from the draft published under subsection (1) in a way which is, in the opinion of the Authority, significant

- ***the Authority must… publish details of the difference; and***
- ***those details must be accompanied by a cost benefit analysis.***

The Act also sets out circumstances for when the FSA is not required to fulfil certain requirements, and what is meant by ‘cost benefit analysis’ and ‘appropriate comparisons’.

91 Several interviewees are strongly against taxpayer subsidy of Personal Accounts. As such, any Government funding arrangements need to be transparent. Funding options were out of scope for this project because the DWP has commissioned separate research in this area.

92 See Cabinet Office (2005b)

93 Financial Services and Markets Act 2000 Part VIII clause 121

Several interviewees mentioned the FSA consultation requirements as a favourable model for the executive Delivery Authority. However, commercial considerations and time restraints may limit public consultation regarding Personal Accounts. Further consideration is needed to determine what the executive Delivery Authority must consult on, and any processes for determining circumstances when the executive Delivery Authority might be allowed to not consult (for example, if there are any situations when time restraints would be a sufficient reason for curtailing or bypassing the usual consultation processes).

Cost will be incurred in the setting up of Personal Accounts. It is yet unknown the extent to which the Delivery Authority will need to meet set up costs in advance of collecting revenue, and how much of this set up cost will be passed on to contractors who win tenders to provide services in Personal Accounts. Many interviewees feel strongly that there needs to be transparency in the accounts of the Delivery Authority and any costs incurred in setting up Personal Accounts need to be met from future charges income rather than from Government funding. Funding options were out of scope for this project as the DWP has commissioned separate research in that area.

Evaluation and success criteria for the executive Delivery Authority

The success of the Personal Accounts Delivery Authority will depend on it being able to deliver a national pension saving scheme within budget, on time and that meets the scheme objectives. Interviewees noted that given the short time frame for delivering Personal Accounts and the scale of the overall task, the Delivery Authority will need to have a delivery plan that sets out key tasks and milestones. The performance of the Delivery Authority will be measured against the delivery plan.

It is common practice for governance Boards to review their own practice, to establish a subcommittee that reviews the board’s practice, and / or to be subject to external review by an independent agency.

Chapter 4: Transition options

Interviewees expect considerable continuity in the personnel and structure of the Delivery Authority in its advisory and executive phases. They also expect continuity and seamless transition from the Delivery Authority to the Board, but are less clear about how this may be achieved given the different expertise required in each phase.

The ultimate design of the Board should influence the work of the Delivery Authority. Specifically, as the Delivery Authority works to finalise the scheme design, implement systems and procure services, it will need to have consideration for the objectives, remit and restrictions faced by the Board.

If the Delivery Authority and Board have different remits (ie if one has a narrow remit and the other broad), then transition may be less straightforward. For example, if the Delivery Authority has a broad remit (option B) and the Board has a narrow remit (option 1) then the transition phase will need to include handover to the Board and to additional successor bodies. These bodies may include DWP and other Government departments, regulators, and/or newly established bodies. Box 12 outlines some transition options.

Box 12: Transition Options

A-Day Handover: The Board takes on all responsibility for running Personal Accounts from 2012. In this scenario the Delivery Authority would a) be disestablished from A-day and handover responsibility to the Board, or, b) become the Board on A-day.

Pre 2012 Handover: The Board would take over responsibility for the scheme prior to 2012. It would take on the procurement and set up tasks the Delivery Authority had undertaken.

Post 2012 Handover: The Delivery Authority would run the Personal Accounts scheme for the first 1-2 years of its operation and handover to the Board at a later date.

Parallel Operation: The Board and the Delivery Authority would both operate in parallel for some period, with:

- Different powers: for example, the Board could come into existence with advisory powers only prior to 2012 and advise the Delivery Authority through the contract development phase. After 2012, the Board could take on executive powers and the Delivery Authority could continue to exist for a short time to provide expertise and advice to the Board regarding operational issues.
- Different remits: for example, responsibility in some areas could rest with the Board who could direct the Delivery Authority regarding procurement. For example, the Board could design the investment strategy and direct the Delivery Authority regarding procurement of fund managers.

Interviewees do not have strong views about the best way to transition from the Personal Accounts Delivery Authority to the Personal Accounts Board; in fact many assume that the two bodies will largely be made up of the same personnel. One view is that a Post 2012 Handover would be advantageous because it would ensure that the executive Delivery Authority would remain responsible for fixing problems that arise when the scheme is operational. A different view supports Parallel Operation with different remits for the Delivery Authority and the Board. Depending on the Delivery Authority's powers and remit, this approach could offer greater independence for some design decisions but could also result in additional costs.

Interviewees identify some key transitional issues that will need to be considered regardless of which transition option is chosen. These relate to clarity of roles, minimising additional costs, and maximising continuity and flexibility.

Clarity of roles

Clearly defined roles and responsibilities are critical for ensuring accountability and minimising duplication. This will be particularly important if the Delivery Authority and Board operate in parallel for a lengthy period. Memorandums of understanding are a common practice for defining roles.

Interviewees suggest that the Delivery Authority needs to develop a hand over plan in advance of 2012. The DWP may also have a role in managing hand over depending on which remit options are chosen. In the transition period the Delivery Authority will need to ensure continuity of engagement with key stakeholders.

Minimising additional costs

Operating two bodies in parallel is likely to have additional costs associated. Some additional costs may be deemed acceptable but this needs to be considered if parallel operation is chosen.

Maximising continuity and flexibility

There is a large degree of interdependence between the executive Delivery Authority and the Personal Accounts Board. Interviewees suggest different options for maximising continuity through the transition from the Delivery Authority to Board. These include:

- Key Delivery Authority personnel (for example, Chairman and Chief Executive) continue to serve in equivalent position when the Board is established.
- Some Delivery Authority committees (particularly the investment committee) continue to serve under the Board when this is established.
- The Board takes on legal responsibility for assets and liabilities of the Delivery Authority (for example, debts and accommodation).
- Contracts that are established by the Delivery Authority provide flexibility for the Board to alter/terminate them if required.

Chapter 5: Key risks and challenges to Personal Accounts

Interviewees recognise that introducing Personal Accounts is a large task that carries many challenges and risks associated with implementing a new policy, particularly on a large scale and with a service delivery component. They also stress that they want to see Personal Accounts succeed.

People who took part in the interviews were asked to focus on identifying the risks and challenges that they think are unique to Personal Accounts and that the Delivery Authority and / or Board could have a role in mitigating. Some key risks and challenges are summarised below.

Introducing Personal Accounts is a major policy undertaking and a successful launch is critical

For Personal Accounts to succeed it will need to be targeted towards the appropriate people, achieve the right balance of flexibility and stability, and be independent of Government but accountable to it. It will also need to be launched with support from stakeholders across the pensions sector and across political parties.

Many interviewees feel that a negative launch surrounded by public criticism of Personal Accounts is a key risk for the success of the scheme. They feel that extensive consultation throughout the design of Personal Accounts and openness regarding the thinking behind design decisions and tradeoffs are two mechanisms for mitigating the risk of a negative launch, however they warn that both these approaches are time consuming and could lead to delays in the implementation of the scheme.

Under all remit options, the Delivery Authority will have a role in launching the Personal Accounts scheme. However, interviewees have mixed views about the extent to which the Delivery Authority should be responsible for uniting the pensions sector to achieve a positive Personal Accounts launch. Under option A (Narrow remit) the Government may be tasked with achieving and maintaining consensus. Under option B (Broad remit) this would be a task for the Delivery Authority. Under option C (Hybrid remit) the Delivery Authority may provide advice to Government and work with other agencies to achieve a positive launch, but responsibility for achieving consensus would ultimately rest elsewhere.

Setting up and running Personal Accounts is a major commercial undertaking

There are numerous logistical challenges associated with designing, implementing and running a large pension scheme on time and within budget. These relate to designing and building an IT system that can handle the number and diversity of contributions, designing customer service and complaints handling procedures, and ensuring a consistent level of service across multiple contractors.

One specific challenge relates to having one body (the Delivery Authority) setting up contracts and a second body (the Board) managing those contracts over time. Interviewees stress that contracts need to strike the right balance between stability and flexibility. For example, they envisage that the Delivery Authority may enter into long term contracts that achieve best value for money but do not allow sufficient flexibility for the Board to alter / terminate contracts that become inappropriate over time.

Setting up and running Personal Accounts will require input and coordination of multiple agencies

The roles and responsibilities sections of this paper discuss options for the Board and Delivery Authority taking on broad or narrow remits regarding setting up and running Personal Accounts. A key concern is that the many tasks involved with setting up and running Personal Accounts will be allocated across a number of agencies and organisations, which could result in grey areas in accountability, duplication of roles, and / or tasks being missed altogether.

Interviewees feel strongly that the implementation and operation of the Personal Accounts policy requires oversight from a single agency. However, they have mixed views about which agency has responsibility for the oversight role.

Under option A (Narrow remit) the Delivery Authority would be responsible for overseeing all aspects of the Personal Accounts scheme design and implementation in the pre-launch phase. However, additional tasks related to designing the exempt scheme test, for example would rest elsewhere. In this approach, the oversight role would probably rest with DWP as stewards of the policy. Under option B (Broad remit) the Delivery Authority may have the oversight role. Under option C (Hybrid remit) the oversight role would still not rest with the Delivery Authority, however it would be actively engaged in providing advice to Government in areas additional to setting up the Personal Accounts scheme.

Under option 1 (Narrow remit) the Personal Accounts Board would oversee all aspects of Personal Accounts operation, but the wider oversight role would rest with Government, probably through DWP. Under option 2 (Broad remit) the Board would be responsible for overseeing all aspects of the Personal Accounts policy and scheme operation after the scheme is launched in 2012.

<u>Employee</u> behaviour in response to Personal Accounts is largely unknown

A key risk to Personal Accounts is high opt-out rates and low persistency. This could result in lower than expected additional pensions saving and higher than expected charges for individual members. High opt out rates could result from many factors, including: lack of confidence, poor customer service, people deciding that they do not want / cannot afford to save for retirement, public perception that Defined Contribution schemes are inferior to Defined Benefit schemes.

The majority of interviewees suggest that it is critical for Personal Accounts to be designed for its target group to mitigate this risk. To do this, they suggest the Delivery Authority should be responsible for developing a detailed understanding of the target group (through research), consulting potential future members throughout the design phase, and testing design decisions and systems on consumers also throughout the design phase. This highlights the importance of appropriate consumer / member representation on the board of the Delivery Authority, and its various committees, and appointing people with sufficient knowledge and experience of consumer issues.

Interviewees expect that the Board would monitor participation rates in Personal Accounts and take steps to remedy higher than expected opt out rates.

<u>Employer</u> behaviour in response to Personal Accounts is largely unknown
Just as employee behaviour is largely unknown, employer behaviour could pose a risk to the success of Personal Accounts. Employers could be ill-informed about their roles and obligations, choose not to comply with auto-enrolment and minimum contributions or could suppress wage increases to offset the contributions they are required to make.

Under both a narrow and a broad remit, the Delivery Authority will need to consider impacts on employers and to minimise the (financial and administrative) burdens on them as they design the Personal Accounts scheme. Interviewees suggest that regular consultation and systems testing will be required throughout the design phases to mitigate such risks. Similarly, under both remit options, the Board will have a role in monitoring the behaviour of employers who are part of Personal Accounts and managing the ongoing burden Personal Accounts places on them.

Some risks, however, will rest outside of the Delivery Authority's and the Board's control if a narrow remit is adopted (option A and option 1 respectively). These include risks related to designing systems for registering exempt schemes and enforcing compliance across the occupational pensions sector, for example. If the Delivery Authority and Board have narrow remits these tasks would rest elsewhere, possibly with DWP, the FSA or The Pensions Regulator (TPR).

Returns from Personal Accounts are largely unknown
There is a risk that members' and policymakers' expectations of the returns that people will receive from Personal Accounts will not be in line with what Personal Accounts can deliver at an individual level and for the target group as a whole. Returns may be affected by market failure, investment strategy, charging structure and levels, tax and contribution levels. Furthermore,

individuals' returns will be affected by the interaction of their savings with State Pension and means tested benefits[94].

Interviewees feel that the Delivery Authority and the Board will both have a responsibility for mitigating risks of low returns through the design features of the scheme, expectation management and regular communications to members.

However, Government will still have some responsibility for returns. This is because Government will maintain responsibility for State Pensions, taxes and the interaction between savings and State provision. Also, even if the Delivery Authority and the Board are both given broad remits (option B and option 2 respectively), there is a risk that the public will still hold Government responsible for scheme performance because the scheme is established in legislation.

It is worth reiterating that while they do see risks, interviewees do want to see the Personal Accounts scheme succeed and many offered their organisations assistance in working with the Government to mitigate risks further as the Delivery Authority and Board are established.

[94] PPI (2006a)

Appendix 1: Research methodology

Research methodology:

- Analysis of published policy documents, the Pensions Bill and public debate, including the Commons Committee stage
- Desk-based review of case studies of national and international models for designing and delivering arms length Government services and large pensions schemes
- Analysis of responses to the DWP's Personal Accounts White Paper ***Personal Accounts: a new way to save***
- Semi structured interviews and 1 focus group
- Reference to relevant best practice literature.

Semi-structured interviews

The PPI undertook semi-structured interviews, and one focus group, with more than 30 individuals representing 20 organisations[95]. Interviewees included stakeholders from the pension sector, representatives from case study organisations, and or other agencies that could offer insights into governance issues. Several interviewees fit into both categories. The PPI would like to thank interviewees from the following organisations for participating in this research.

- Association of British Insurers
- AEGON
- Age Concern England
- British Chambers of Commerce
- Confederation of British Industry
- Constitution Unit
- DWP
- Engineering Employers' Federation
- Equal Opportunities Commission
- Federation of Small Businesses
- Financial Services Authority
- Help the Aged
- HM Treasury
- Investment Management Association
- National Association of Pension Funds
- National Audit Office
- Olympic Delivery Authority
- The Pensions Regulator
- Trades Union Congress
- Which?

Case study interviews focused on exploring governance structures and challenges that may provide lessons for setting up the Personal Accounts Delivery Authority and Board. Stakeholder interviews explored stakeholders' views on the Government's policy aims for setting up and delivering Personal Accounts and the proposed three stage model.

In relation to the executive Delivery Authority and Board, we explored:

- Roles and responsibilities
- Objectives for the Personal Accounts scheme and for each body

[95] Interviews were conducted face-to-face in most instances, but also included 2 telephone interviews and 1 telephone conference. We included a written response to specific interview questions from one interviewee who was unable to attend a face-to-face meeting.

- Membership, structure, and options for stakeholder representation
- Accountability lines and mechanisms
- Potential issues in the transition from the executive Delivery Authority to the Board
- Key risks to the Personal Accounts scheme and each body's role in mitigating these
- Evaluation processes and criteria for determining success.

Two areas were explicitly out of scope for this project. Stakeholder interviews did not focus on the Delivery Authority in its advisory phase because the Pensions Bill that sets out the role and remit of the advisory Delivery Authority is already close to becoming enacted. Funding arrangements were also out of scope because the DWP has commissioned separate research in this area.

Appendix 2: Personal Accounts scheme objectives

Background research for this discussion paper explored the role and objectives of the Personal Accounts Delivery Authority and Board. We found that any discussion of the Delivery Authority's and Board's objectives cannot be had in isolation of a discussion about the objectives of the Personal Accounts scheme itself. As such, the rest of this chapter discusses the Personal Accounts scheme objectives and stakeholders' responses to them. Below are some comments interviewees made regarding specific scheme objectives set out in the Personal Accounts White Paper.

1. ***Optimising levels of participation and contribution among the target group***[96]

Several stakeholders commented that, as it is currently worded, this objective could result in unintended incentives for the Personal Accounts scheme to try to enrol people outside the target group. One interviewee suggested changing the wording to ***maximise participation among those in the target group who will benefit from saving in a Personal Account,*** another interviewee suggested ***minimising levels of opt out*** and ***maximising <u>additional</u> contributions among the target group.***

Interviewees also noted that optimising participation may not always be in the best interests of members. They feel that Government needs to set a target level of participation based on analysis of existing provision.

2. ***Setting an investment strategy in the best interests of the members*** and
7. ***Ensuring that funds are invested in the best interests of the members***

Several interviewees commented on the similarity between these objectives and the possibility for them to be collapsed into a single objective.
One interviewee felt that there needs to be an objective for Personal Accounts that aims to ***link fund growth to earnings growth***, particularly for the default fund, and that the scheme should have flexibility to make investment decisions within this scope. Others have suggested that the Board should apply the best investment techniques used in large DB and DC funds.

3. ***Minimising burdens on employers***

Several interviewees voiced concerns regarding this objective. While interviewees do feel that the Personal Accounts scheme should minimise burdens on employers, they also feel that much of the burden will be determined in the design phase.

One interviewee suggested that the wording should be changed to ***minimising <u>costs and</u> burdens on employers.***

[96] Numbers relate to the order in which objectives are listed in the DWP Personal Accounts White Paper. They do not denote order of importance

4. ***Considering the impact on other high quality pension provision***

Interviewees are in agreement that the Personal Accounts scheme should not impact negatively on high quality existing provision. Several interviewees suggested that the wording of this objective should be changed from 'considering' to 'minimising'.

9. ***Achieving both the lowest possible charges for members and charges that are fair between members***

Several interviewees pointed out the potential conflict between this objective and the objectives relating to members' best interests and minimising burdens on employers. For example, ***lowest possible charges*** may result in substandard service for members and/or cost shifting to employers. Interviewees suggested revising the wording of this objective to a***chieving both <u>low</u> charges for members and charges that are fair between members.***

Interviewees also pointed out that in a trust-based model, typical of occupational pension schemes, charges-related objectives are usually more focused on providing ***value for money*** and ***reasonable charges***. These concepts may be considered in relation to the wording of this objective.

Previous PPI research into alternative structures for Personal Accounts, published in March 2007[97], exposed the difficulties of determining what is 'fair'. For example, in the context of Personal Accounts, one definition of 'fairness' is that everybody pays the cost of running their fund, with no cross-subsidy between members. Another definition of 'fairness' is that everybody loses the same proportion of their fund value to charges, so that the amount paid is lower for lower earners and for people with short saving histories[98].
One view is that Personal Accounts should encourage participation amongst the lowest paid and lowest contributors and those with variable work patterns. Another view is that Personal Accounts should be designed for the target group and should not provide cross-subsidies within that. Interviewees feel that the concept of fairness in relation to charges needs further debate and should be clearly defined.

- ***Additional objectives***

Stakeholders agree that the Personal Accounts scheme should be closely focused on the target market[99]. Several interviewees suggested that an objective regarding targeting be included for the scheme. This could help to reduce the risk that Personal Accounts may impact negatively on existing provision.

[97] PPI (2007)
[98] PPI (2007) page 3
[99] Target market: ***people between age 22 and State Pension age, who earn over approximately £5,000 per annum, and who either do not have access to a work-based pension scheme with an employer contribution of at least 3 per cent, or do not participate in one if offered(***DWP December 2006 RIA page 57)

Appendix 3: KiwiSaver scheme

The KiwiSaver scheme does not have an authority established in legislation to oversee the scheme's operation. Instead, key responsibilities and functions are delegated to several existing Government departments.

Inland Revenue (IRD) administer members' contributions mainly through the pay as you earn tax system. IRD's main responsibilities under KiwiSaver include:

- Receiving members' contributions (including any employer contributions) through their employers and transferring them to the right KiwiSaver scheme provider.
- Giving employers information packs to pass on to employees.
- Allocating default schemes to people who don't choose one themselves.
- Administering opt out and contributions holiday requests.
- Providing information to the public and helping build awareness of the KiwiSaver savings initiative.
- Also responsible for the KiwiSaver website.

The Government Actuary is responsible for registering and regulating KiwiSaver schemes. The Government Actuary is part of the Ministry of Economic Development's Insurance and Superannuation Unit (ISU). The ISU supervises the management of registered superannuation schemes, encouraging compliance with the Superannuation Schemes Act 1989 and other legislation.

Ministry of Economic Development coordinated the tender process for appointing default KiwiSaver providers. The Ministry also administers the regulatory framework for KiwiSaver in a similar manner to other registered superannuation schemes.

The Treasury consulted with various stakeholders around the development of the KiwiSaver Act.

Housing New Zealand Corporation provided policy advice on the KiwiSaver first home deposit subsidy. Housing New Zealand is also responsible for setting the subsidy's house price and income caps, and processing first home deposit subsidy applications.

The Retirement Commission helps New Zealanders prepare financially for their retirement. They offer free and independent financial information through the Sorted website. Sorted offers easy to use online tools to help you work out if KiwiSaver is right for you. The Retirement Commission is associated with KiwiSaver through its financial education programme[100].

[100] KiwiSaver (2007)

Acknowledgements and contact details

The authors are grateful to the reviewers of this paper:

Vanessa Brand
Chris Curry
Emily Grief
Michelle Lewis
Dominic Lindley
Jonathan Lipkin
Michael Littlewood
Carlos Sanchez
Susan St John
Adam Steventon
Tom Allebone-Webb
Jane Woolley

The authors take responsibility for remaining errors.

The Pensions Policy Institute is an educational charity promoting the study of retirement provision through research, analysis, discussion and publication. The PPI takes an independent view across the entire pensions system.

The PPI is funded by donations, grants and benefits-in-kind from a range of organisations, as well as being commissioned for research projects. To learn more about the PPI, see: www.pensionspolicyinstitute.org.uk

Contact:
Niki Cleal, Director
Telephone: 020 7848 3744
Email: niki@pensionspolicyinstitute.org.uk

Pensions Policy Institute
King's College
Kay House
4th Floor
7 Arundel Street
London
WC2R 3DX

The PPI is grateful for the continuing support of its Gold members:

AEGON
Legal & General
Prudential
Scottish Widows
Standard Life
Threadneedle Investments

A full list of donors is on the PPI's website. All donations are given independently of the PPI's research agenda and report content.

References

Amilio, Gary (2006) ***Presentation to Department for Work and Pensions, 19 October 2006.*** Gary Amelio is the Executive Director of the Federal Retirement Thrift Investment Board

Bank of England (2007) ***Treasury Committee Questionnaire ahead of appointment hearing for Sir John Gieve*** available on Bank of England website

British Olympics Association (BOA) (2007) http://www.olympics.org.uk/home2.aspx. Website accessed April 2007

Cabinet Office (2005a) ***Classification of Public Bodies: Guidance for departments***

Cabinet Office (2005b) ***Code of Practice on Consultation***

Cabinet Office (2006a) ***Public Bodies 2006***

Cabinet Office (2006b) ***Public Bodies: A Guide for Departments***

Charities Commission (2001) ***The independence of Charities from the State***

Cullen, Hon. M. (Minister of Finance) and Dalziel, Hon. Lianne, (Minister of Commerce) ***Easier Saving One Step Closer – KiwiSaver Default Providers Signed Up*** - Media Statement of 2nd April 2007

Department for Trade and Industry (2007) www.dti.gov.uk/sectors/postalservices/UK%20Consumer%20Body/page28899.html. Website accessed April 2007

Department for Transport (2004) ***The Future of Rail*** TSO CM 6233

Department for Work and Pensions (DWP) (2006 SR - May) ***Security in Retirement: towards a new pensions system*** TSO CM 6841

Department for Work and Pensions (DWP) (2006 PA - December) ***Personal Accounts: a new way to save*** TSO CM 6975

Department for Work and Pensions (DWP) (2006 PA RIA) ***Personal Accounts: a new way to save Regulatory Impact Assessment***

Financial Services Consumer Panel (2007) www.fs-cp.org.uk/ Website accessed April 2007

Financial Services Practitioner Panel (2007) www.fs-pp.org.uk/ Website accessed April 2007

Försäkringskassan (2007) ***This is how you earn a pension (updated 1 January 2007)***

House of Commons treasury Committee (2007) ***Work of the Committee in 2005–06: Third Report of Session 2006–07*** TSO HC191

KiwiSaver (2007) http://www.kiwisaver.govt.nz/about/who/ Website accessed April 2007

Lender, A (2006) ***Towards a better pension awareness through the internet*** Presentation at European Pension Debate 7 April 2006. Slides available at http://www.uvt.nl/faculteiten/frw/ccp/epd/2006-Lender.pdf

London 2012 (2007) http://www.london2012.com/en/ourvision/ODA/ Website accessed April 2007

National Savings and Investments (NS&I) (2001) ***National Savings Framework Document October 2000 (Revised July 2001)***

National Savings and Investments (NS&I) (2007) http://nsandi.com/about/ourstory.jsp. Website accessed April 2007

New Zealand Treasury (2006) ***KiwiSaver: Overview of the scheme***

Ofgem (2007) www.ofgem.gov.uk. Website accessed April 2007

Office for the Commissioner for Public Appointments (2005) ***Code of Practice for Ministerial Appointments to Public Bodies***

Premium Pensions Authority (PPM) (2007) http://www.ppm.nu/tpp/infodocument/1:1;201469,201304,201475,201481;: Website accessed April 2007

Pensions Advisory Service (2007) http://www.pensionsadvisoryservice.org.uk/occupational_pensions/mnts/ Website accessed April 2007

Pensions Board of Ireland (2006) ***Report of the Pensions Board to the Minister of Social and Family Affairs on Trusteeship*** available on the Irish Pensions Board website

Pensions Policy Institute (PPI) (2006) ***NPSS policy and design choices***.

Pensions Policy Institute (PPI) (2006a) ***Are Personal Accounts suitable for all***?

Pensions Policy Institute (PPI) (2007) ***Charging Structures for Personal Accounts.***

Postwatch (2007) http://www.postwatch.co.uk/about/whatwedo.asp Website accessed April 2007

Railway Pension Scheme (2007) http://www.railwaypensions.co.uk/ Website accessed April 2007

Royal Mail (2007) www.royalmailgroup.com. Website accessed April 2007

Tate (2007) www.tate.org.uk/about/faqs/governance.htm. Website accessed April 2007

Tax Policy Centre (2006) ***KiwiSaver Evaluation Literature Review***

The Pensions Regulator (TPR) (2007) ***Code of practice No. 8 Member-nominated trustees and directors - putting in place & implementing arrangements.***

The Pensions Regulator (TPR) (2007a) http://www.thepensionsregulator.gov.uk. Website accessed April 2007

Weaver, R. Kent (2005) ***Design and Implementation in Swedish Individual Pension Accounts***

Weaver, R. Kent (2005b) ***Social Security Smorgasbord? Lessons from Sweden's individual pension accounts*** in The Brookings Institute Policy Brief no. 140

Wikipedia (2007) www.wikipedia.org. Website accessed April 2007

Legislation
Financial Services and Markets Act 2000 can be accessed at: www.opsi.gov.uk/acts/acts2000/20000008.htm#aofs

Federal Employees' Retirement System Act of 1986 (5 U.S.C. 8351 and 8401–79) can be accessed at: http://www4.law.cornell.edu/uscode/html/uscode05/usc_sup_01_5_10_III_20_G_30_84.html

KiwiSaver Act 2006 can be accessed at: http://www.legislation.govt.nz/browse_vw.asp?content-set=pal_statutes

London Olympic Games and Paralympic Games Act 2006 can be accessed at: http://www.opsi.gov.uk/acts/acts2006/20060012.htm

Museums and Galleries Act 1992 can be accessed at:
http://www.opsi.gov.uk/acts/acts1992/Ukpga_19920044_en_1.htm

Pensions Act 2004 can be accessed at:
http://www.opsi.gov.uk/ACTS/acts2004/20040035.htm

Postal Services Act 2000 can be accessed at:
http://www.opsi.gov.uk/acts/acts2000/20000026.htm

Transport Act 2000 can be accessed at:
http://www.opsi.gov.uk/ACTS/acts2000/20000038.htm

Utilities Act 2000 can be accessed at:
www.opsi.gov.uk/acts/acts2000/20000027.htm

Published by
PENSIONS POLICY INSTITUTE

PPI

www.pensionspolicyinstitute.org.uk
978-1-906284-01-5