Mary Creagh MP  
Chair, Environmental Audit Committee  
House of Commons  
London  
SW1A 0AA  

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Dear Ms Creagh

Thank you for inviting me to give evidence at the hearing of the Environmental Audit Committee on 20 February. I thought it would be useful if I respond in writing to an observation you made towards the end of the session, when you described a pensions regulator “that does not think that trustees should talk to scheme members and find out what they want” (Question 382). I am keen to provide further background information on this point which I hope will be helpful to the Committee.

In TPR’s investment guidance for trustees of defined benefit (DB) and defined contribution (DC) pension schemes we summarise the guidance of the Law Commission on considering financial and non-financial factors. This states that “the law is sufficiently flexible to allow (trustees) to take other, non-financial factors into account. This may be the case if (trustees) have good reason to think scheme members share (this) view and there is no risk of material financial detriment to the fund.”

There is not a positive duty on trustees to establish members’ views on investment matters. However, proposed changes the DWP is minded to make to the Occupational Pension Schemes (Investment) Regulations 2005 following the Law Commission’s review of pension funds and social impact investment would require trustees to state their policy in the scheme’s Statement of Investment Principles (SIP) on consideration of members’ non-financial concerns¹. TPR will update our guidance following these proposed changes.

The occupational pensions framework is built on trustees making decisions and implementing them in the best interests of scheme members and beneficiaries for the purpose of the pension trust. Being a trustee can be a complex and challenging role and driving up standards of trusteeship is a priority for us at TPR. We want to see trustees being a knowledgeable, empowered first line of defence for pension scheme members.

The regulatory framework and our efforts focus on the behaviour of thousands of trustees, rather than engaging with and changing the behaviour of millions of scheme members, working to improve the standards of governance and stewardship of pension schemes.

I hope that this is helpful clarification.

Yours sincerely

Anthony Raymond
Acting Executive Director of Regulatory Policy, Analysis and Advice