The Pensions Regulator

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Rt Hon Frank Field MP
Chair, Work and Pensions Committee
[redacted]
London
[redacted]

16 March 2018

Dear Mr Field

Thank you for your letter of 6 March on defined benefit (DB) pension regulation.

Our role is to protect workplace pensions. This is a wide remit which incorporates effective regulation of DB schemes alongside delivering automatic enrolment, regulating defined contribution schemes, preparing for authorisation of master trusts, tackling pension scams and ensuring public sector schemes are well run.

We agree that effective regulation relies on the combined strength of the powers we are given and how we use those powers and other interventions to bring about better outcomes for pension savers. In regulating DB schemes, Parliament has given us a mandate to protect members and the PPF, while balancing the needs of employers to invest in the sustainable growth of their businesses. When companies with deficits collapse we know that it can be an anxious time for pension scheme members. The PPF ensures that members receive the majority of their pension, but we appreciate that any reduction can be hard to bear for members who have done the right thing by saving for retirement.

We agree with the Select Committee that changes to the legislative framework are needed. We have asked the Government in its forthcoming White Paper to strengthen our section 231 funding powers, which are poorly defined in legislation. Our proposed changes would enable us to set clear expectations of employers and trustees and build a clear evidential case to take enforcement action. It is important that we have the necessary resources to intervene more quickly, using more of our powers and interventions across more of the schemes we regulate. We have already secured an additional £3.5m funding in 2017-18 to support frontline casework, master trust authorisation and our future regulatory model; and have already increased our proactive casework by 90%.

The Pensions Regulator is a very different organisation from five years ago. We are being clearer about what we expect, quicker to act and tougher on those who do not act in the interest of members. We have more to do, but I and TPR's Board believe that we are on the right track. Following a review of our approach to regulation we have started to implement changes to: identify and mitigate risk more effectively; move from a primarily event-driven approach to maintaining active oversight of more schemes; and use more of our powers, more quickly, alongside a broader range of other interventions. We are seeing results - recent 'firsts' have included obtaining a High Court order that four scammers must pay back nearly £14m through our restitution powers and 7 successful prosecutions for failure to provide information, wilful noncompliance with automatic enrolment duties and recklessly providing false or misleading information to TPR.

It remains an unfortunate fact that some companies will collapse - for reasons unrelated to the funding of the pension scheme. It is also a fact that, after a prolonged period of low interest rates and uncertain economic conditions, 80% of DB pension schemes were in deficit at the time of their last valuation. To fully fund all DB schemes to a level where they would not fall into the PPF in the event of sponsors collapsing would cost more than £170 billion. Parliament scrapped a Minimum Funding Requirement when it set up TPR, opting for a more flexible approach to scheme funding which requires risks to be managed, but not eliminated. In maintaining a balance between having a strong, solvent sponsoring employer and an adequately funded scheme, we have to take complex decisions which we believe to be right at the time, given the information available to us and the broader economic context. We accept that over the last decade there have been times when the balance between employer and scheme may not always have been right. We are working differently today and I am keen to keep the Select Committee updated on our work.

As you point out, we have yet to bring a section 231 funding case to its full conclusion. We have written to you about our ongoing funding casework and occasions where the threat of its use has resulted in better funding for schemes. Section 231 is one of several regulatory tools we are able to use to good effect without always having recourse to full enforcement activity, which can be costly and takes time, but we agree that for our powers to be a credible deterrent we need to demonstrate that we are prepared to use them and we are committed to making greater use of our s231 powers. As explained above, we have proposed improvements to our funding powers that we believe would enable us to intervene more decisively to drive acceptable outcomes. We await publication of the Government's White Paper.

Turning to your requests in relation to KPIs and KOIs as published in our Corporate Plan 2017-20[1]:

1. ***A mid-year update on performance against 2017-18 KPIs and KOIs***

Based on data up to our third quarter, we are confident that we will achieve our targets across all 4 of the KPIs we set for effective regulation of DB schemes.

We have worked hard to make our Key Performance Indicators (KPIs) more specific and performance-focused over recent years, setting stretching targets directly mapped to our corporate priorities. Our Key Outcome Indicators (KOIs) track trends to monitor progress towards longer term outcomes. We use a range of measures which are generally observed annually and will be included in our Annual Report and Accounts.

We are currently implementing the findings of a comprehensive review of our regulatory approach and, as part of that, we will further revise our outcome measures to ensure they link with our broader corporate priorities and KPIs.

2. ***Benchmarks against which to compare the 2017-18 performance:***
   (a) for KPIs 2.1 and 2.2 – the comparative percentages for 2016-17;
   (b) for KPI 2.3 and each element of 2.4, the numbers of instances in 2016-17 against which the increase in 2017-18 will be assessed

[1] http://www.thepensionsregulator.gov.uk/docs/corporate-plan-2017-2020.pdf.

- KPIs 2.1 and 2.2 were new measures this year so we cannot provide the comparison requested.

- KPI 2.3 -12 in 2016-17 to increase to a target of 23 in 2017-18.

- KPI 2.4 -10 in 2016-17 to increase to a target of 13 in 2017-18.

3. An update of your plans for setting KPIs and KOIs for the 2018-19 year

Our priorities are discussed and agreed by our Board and the Department for Work and Pensions. We have not yet finalised our priorities and KPIs for 2018-19. These will be agreed by our Board this month. We anticipate that we will maintain continuity with our existing DB KPIs in 2018-19. Our finalised KPIs and KOIs will be published as part of our next Corporate Plan in April and reported on in our Annual Report and Accounts in the following year.

Yours sincerely

Lesley Titcomb
Chief Executive