Dear Mr Field

**Universities Superannuation Scheme (USS)**

Thank you for your letter regarding Universities Superannuation Scheme (USS) concerning the removal of a trustee from the scheme. Addressing your questions in turn:

**In what circumstances would TPR become involved in the removal of a scheme trustee under the trust deed?**

A pension scheme’s trust deed will state how and by whom trustees of the scheme are to be appointed and removed. The decision whether to remove an individual from that position would be a matter for the person who has been given the power to appoint and remove trustees under that document. TPR cannot prevent or exercise control over that decision.

In circumstances where TPR has concerns over scheme governance, legislation gives us power to remove, suspend or appoint trustees in certain circumstances.

**Is it possible that a trustee removed by other trustees could be reinstated by the scheme members?**

Yes, if scheme members believe a decision to be defective they can ask the Court to overturn the decision. It is the High Court which has jurisdiction over trustee decision-making.

**Do removed trustees remain liable for decisions taken while they were trustees if their removal was linked to disagreement over those decisions?**

It is unlikely that a former trustee would be at risk of personal liability in the situation that you describe in your letter. Most schemes have indemnity provisions which, for the most part, protects trustees from liability for acts other than those in bad faith. It would be for the Court to determine liability in such a case and TPR would have no involvement.

**If USS members are no longer satisfied with the governance arrangements of their scheme, what support might they get from TPR in seeking new arrangements?**

USS is the largest private pension scheme in the UK, with a very large membership and significant liabilities. As such, we are working closely with USS in respect of its governance arrangements and the scheme will be subject to our relationship supervision regime. Supervision enables us to
monitor schemes more closely, outline our expectations, and prevent problems from developing in the first place. Supervision involves building strong relationships with schemes regardless of whether they trigger our traditional risk indicators.

If we have concerns regarding the governance of a scheme, we do have powers (as mentioned above) in relation to the removal and appointment of trustees, which we may choose to use if we conclude that it is appropriate for those powers to be used. This would be based on the evidence and information members provide.

The Committee will be aware that the Joint Expert Panel's (JEP's) second report is due to be published later this year. The JEP invited calls for evidence from all parties and this second phase of work has two parts: the first is concerned with the valuation process and governance; and the second with the long-term sustainability of the scheme. TPR has met the JEP, providing it with our views for it to consider. We will be looking to engage with the JEP again before its report is published. After the report is published, TPR will continue to engage with USS and the stakeholders.

Further to these questions, you have also asked for my comment on the concerns set out in Dr Sam Marsh’s letter regarding the removal of Prof Jane Hutton from her position in USS. Dr Marsh raises issues regarding the representation of the regulator by USS to the JNC. This is an issue we have discussed with USS, UUK and UCU. Though we were concerned regarding the representation of TPR as a “gilts plus regulator”, the presentation of our concerns by USS that the previous valuation had been at the limits of acceptability in terms of the level of risk, was an appropriate reflection of our views.

It is not possible for us to comment on the further points raised in Dr Marsh’s letter as they relate to aspects of actuarial practice and scheme governance that we are continuing to review.

TPR is committed to ensuring all schemes are well governed so that members savings are protected. I hope that this letter helps you to understand TPR’s involvement in this matter.

Yours sincerely

Charles Counsell
Chief Executive