Dear Mr Field,

**Johnston Press plc (in administration)**

Thank you for your follow up letter of 5 December regarding Johnston Press and its pension scheme.

1. **When can we expect to see your decision about whether action is needed?**

   We have sought and received information on the pre-pack sale of the Johnston Press group’s business to JPIMedia Limited. We may seek further information through the use of our s72 power and will continue to liaise with other agencies as appropriate. Our work is ongoing and we believe we will be in a position to decide whether to pursue the use of our anti-avoidance powers by the end of January. We would not typically publicise such a decision.

2. **Do the purchasers of Johnston Press meet the ‘associated or connected’ test?**

   The ‘associated or connected’ test is one of the legal tests set out by Parliament which need to be met if our powers are to be used. We have not yet concluded our work on this point; it is one of the factors we will consider when determining whether to use any of our powers in this case.

3. **In cases where purchasers are not ‘associated or connected’ parties under the Insolvency Act 1986, are there any regulatory options open to you?**

   The ‘associated and connected’ test is important to determine whether we can use our power to impose a Contribution Notice against a particular party in any case. We are assessing whether any aspect of this case might give rise to the use of our powers and as our work has not yet concluded, we are not in a position to comment on what other regulatory options may be open to us.

   a) **If not, is this a gap in legislation which ought to be rectified?**

   While legislative change is a matter for government and Parliament, we are constantly reviewing areas where we believe improvements in the law will help us protect workplace pensions and raising them with our sponsoring department. If this particular case highlights any such issues then we will make that clear.
4. Is there a case for TPR to have a power to veto or pause a pre-pack administration if it has concerns that the process is being misused? Could this work in practice?

   a) Your letter notes that the absence of a veto means that “pre-packs can happen quickly”. How long would TPR need to reach a decision?

   Our view is that to intervene during the course of a pre-pack could create unnecessary delays in a commercial transaction where speed is often necessary to give the business the best chance to survive and to preserve value, commercial relationships and jobs. We have powers to investigate and intervene after the transaction has happened if we suspect avoidance. We continue to believe that this is an appropriate and effective approach which balances the protection of scheme members and the PPF with the desirability of attracting investors/purchasers for distressed businesses. Our anti-avoidance powers, with a ‘look-back’ period of six years also act as a deterrent to those who may seek to avoid their responsibilities. There are other agencies which can take action if parties act inappropriately in administration or insolvency, or in other aspects of corporate governance.

   As confirmed in the PPF’s letter to the Work and Pensions Committee dated 28 November 2018, pre-packs which result in pension schemes transferring to the PPF are relatively uncommon compared to other forms of insolvency. We do not consider the pre-pack mechanism itself to represent a systemic risk to DB pension schemes.

   Estimating the time that would be required to reach a decision to intervene is difficult, as circumstances would be likely to vary from case to case. The length of time needed would be dependent on the degree of co-operation and the quality of information received.

5. Would you be prepared to share with us any representations you have already made to the Insolvency Service in the course of its review?

   We submitted written evidence to the wider BEIS review of corporate governance in June 2018. Our submission is attached; you will note that we did not make any specific points on pre-packs. The work is ongoing and we stand ready to contribute further as appropriate.

   If there are any further specific points arising from our experience of pre-packs then we will, of course, share that information with the Committee.

Yours sincerely

Lesley Titcomb
Chief Executive