Dear Mr Field

Arcadia Pension Schemes

Thank you for your letter of 8 April concerning the Arcadia pension schemes. You have asked what factors The Pensions Regulator (TPR) would take into account when considering a proposal from an employer to reduce deficit reduction contributions (DRCs) to pension schemes.

TPR has a number of statutory objectives to consider in these situations: the protection of member benefits, the protection of the PPF and, as regards our scheme funding power, to minimise adverse impact on the sustainable growth of an employer.

It is the responsibility of the trustees to decide whether to accept reduced DRCs. In order to carry out our objectives, TPR works closely with pension trustees to ensure that they have access to robust, professional advice and expertise in order to make decisions which protect members’ interests. We make clear our expectations to the parties concerned and ensure that trustees understand and use the leverage they have as a stakeholder in the business.

As stated in our DB Funding Code¹, the best support for a well-governed scheme is a strong, ongoing employer alongside an appropriate funding plan. Trustees have difficult decisions to make in these situations. They must consider whether to insist on maintaining DRCs, which could hasten insolvency, or to agree to reduce DRCs in order to give the employer a chance of recovering. In doing so, trustees have a duty to protect the benefits of pension scheme members, and to take account of the impact on the employer. They should only agree to reduced DRCs where they judge it to be in the longer-term interests of members to do so. Employers must provide sound and credible reasons for requesting a reduction in DRCs. Where reasons are not credible, our expectation is that trustees do not accept the proposal.

Working with the trustees, TPR considers what is being offered by way of mitigation in return for any proposal to reduce DRCs, such as security over valuable assets, any ‘upside arrangements’ from the turnaround (e.g. profit sharing arrangements) and whether this mitigation is adequate.

Where an employer’s reason for seeking to reduce DRCs is to fund a turnaround of its business to avoid insolvency, TPR, alongside the trustees and the PPF, would consider whether there is a true or real likelihood of insolvency. A further key consideration is any advice on the feasibility of the proposed business turnaround plan in the context of the needs of the scheme.

We also expect the trustees, in restructuring scenarios, to consider the strength and viability of the support offered by the employer to the scheme after the turnaround and compare it to the insolvency outcome for members. TPR will also consider the risks to the PPF with any approach taken.

TPR expects the pension scheme as a key financial stakeholder to be treated fairly throughout this process. We will work alongside the trustees to consider what is being asked of other creditors in terms of any reduction in the sums due to them, and to ensure equivalent and fair treatment. TPR closely monitors these sorts of situations and we will use the full range of powers available to us to ensure members are being treated fairly.

Whilst we are limited in what we can say about the specifics of the Arcadia situation due to restrictions under the Pensions Act 2004, I hope that sharing the factors that TPR would typically take into account in this type of situation assists the Committee in understanding our approach.

Yours sincerely

Nicola Parish
Executive Director of Frontline Regulation