Thank you for inviting me to give evidence before the committee on June 26. I promised to follow up in writing on a number of issues of interest to the committee, which were also referenced in your letter of 2 July. I have also addressed your additional questions relating to TPR’s 2014 objective from this letter.

Railways Pension Scheme

During the session I spoke of action that TPR had taken against one of the Train Operating Companies (TOCs) because of the balance between dividend payments and contributions to the pension scheme. I went on to say that TPR had issued a Warning Notice (WN) against this TOC (Q45). I would like to clarify that TPR was preparing to issue a WN, but this was put on hold in late 2017 because the threat of enforcement action led to a constructive response from the trustee and TOCs to our concerns. This dialogue opened up the opportunity to address the issues on an industry-wide basis rather than for an individual TOC. We are continuing to work with the trustee, TOCs and Department for Transport.

The committee asked how long the Railways Pension Scheme (RPS) had been on TPR’s watchlist. We have always assessed the covenant, funding and investment risks of pension schemes via the statutory valuation process and ongoing monitoring and horizon-scanning. From June 2016, this risk evaluation approach has been used to produce 'watchlists' of DB schemes. Sections of the RPS have been on our watchlist since it was established.

Chair’s Statement fines (Q83)

I was asked how many fines TPR has issued in relation to failure to comply with the law in this area. The Occupational Pension Schemes (Charges and Governance) Regulations were introduced in 2015. This legislation requires us to issue a mandatory penalty where no chair’s statement has been prepared, or where the statement does not comply with the regulations. Since regulations were introduced TPR has issued 522 fines for noncompliant chair’s statements. We publish our Compliance and Enforcement Bulletin every quarter1 which includes information about our cases and the powers we have used, and includes chair’s statement fines.

Sustainable Growth

I outlined to the committee that during 2011-14 TPR was working in a very different political climate in which the priority of stakeholders and the UK Government was economic recovery and business growth. The impact of DB pension liabilities upon businesses’ abilities to invest and grow was a key part of that debate. My predecessor Lesley Titcomb wrote to the committee in April 2018 setting out the background to TPR being given its sustainable growth objective in 2014. I attach that letter again as it outlines the CBI’s and other organisations’ involvement in the run up to the objective. The objective was defined by the DWP, working closely with HMT and TPR officials. TPR has always believed that the best support for a DB pension scheme is an ongoing, viable employer and therefore when considering action on funding issues we always considered the impact upon employer viability.

With regards to your question as to whether TPR’s actions changed as a result of this objective. The new objective made the consideration of the balance between employer growth and safeguarding savers’ benefits explicit. TPR published a revised DB Funding Code of Practice in 2014, which set out when and how trustees should consider sustainable growth plans as part of a collaborative approach to setting a funding plan.

Turning to your question on whether the 2014 objective creates a conflict of interest for TPR, investment in sustainable growth that strengthens the employer covenant in turn protects members and reduces risk to the PPF. A tension can arise between our objectives in relation to stressed employers, and therefore, we always seek to strike a balance between these objectives.

As an independent regulator we made independent decisions in our complex funding casework prior to the introduction of the 2014 objective and were not influenced by the views of the CBI or Treasury in this regard. I would underline that we are now a very different organisation from 2014 – setting out our expectations more clearly, intervening more quickly and being tougher in our action where we need to be. This is evidenced by cases such as Southern Water, and by the work we are doing this year to address unacceptably long recovery plans and the balance between dividends and deficit recovery contributions.

Scams

TPR is, and has been for a number of years, actively involved in tackling pension scams. We have chaired the cross-Government Project Bloom group since 2016 and work closely with partner agencies, in particular the FCA, so that the appropriate regulator or law enforcement agency can take action depending upon the nature of the scam. In addition we have re-launched our joint ScamSmart campaign with the FCA warning of the dangers of pension scams across TV, radio, online and digital media.

I promised the Committee to come back on a number of specific points on pension scams:

Do you tell members if their pension scheme is affected by a scam? Q97

The ScamSmart website enables consumers to check the FCA Warning List to check if firms are operating without permission or running scams.

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3 Project Bloom is a multi-agency initiative of government bodies, regulators and partner agencies seeking to respond to, and enforce against, the evolving threat of pension scams.
TPR contacts members where we need to do so as part of investigations, for example to obtain witness statements. More usually, the first time that members will learn of TPR's involvement is when we have appointed an independent trustee to take control of a scheme to protect members' savings from scammers. The independent trustee will write to members upon their appointment and, if they suspect a scam, they will inform members. Earlier contact would risk tipping off the scammers who may attempt to steal assets or cover up their actions.

**How many pension scam operations are you looking at? (Q96)**

TPR is currently carrying out seven criminal investigations into scams. These cases cover 52 schemes, have 38 suspects who we are treating as targets, and have indicative losses to savers' pensions of around £55million. They cover a range of complexities and possible outcomes – from fraud and money laundering charges to Employer Related Investments (ERI).

Yours sincerely

Charles Counsell
Chief Executive