

Work and Pensions Committee

Oral evidence: Appointment of the Chair of The Pensions Regulator, HC 1358

Wednesday 21 April 2021

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Members present: Stephen Timms (Chair); Siobhan Baillie; Steve McCabe; Nigel Mills; Selaine Saxby; Dr Ben Spencer; Chris Stephens; Sir Desmond Swayne.

Questions 1 - 49

Witness

I: Sarah Smart, Government's preferred candidate for Chair of The Pensions Regulator.

Examination of witness

Witness: Sarah Smart.

Q1 Chair: Welcome, everybody, to this meeting of the Work and Pensions Select Committee, and a particular welcome to Sarah Smart, the Government's preferred candidate for the post of chair of The Pensions Regulator. I am pleased you have been able to join us this morning. We have a number of questions we would like to put to you and the first questions are from Selaine Saxby.

Selaine Saxby: Good morning, Sarah. What will you bring to the role of chair and what do you hope to gain from the experience?

Sarah Smart: Thank you for the question and thanks very much to the Committee for this opportunity to discuss my suitability for the role.

My goal is to use my skills and capability to help the pensions industry to work better for the people that it serves, its customers, and TPR is at the heart of that. I have been working towards the role of TPR for some time now.

I will bring expertise in three key areas for the role. First, I have deep experience of the pensions sector. I have worked in the pensions industry for 20 years now across a number of different roles and have been exposed to a wide range of issues. I bring a deep understanding that enables me to understand the risks and issues within the sector.



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Secondly, I have proven capability operating as a non-executive and board chair. I have been working in those roles for over 13 years and I understand how to lead an organisation, how to get the best out of board colleagues both individually and collectively as a group, and also that fine balance when working with the executive, providing support and providing challenge and not stepping on their toes.

Finally, I have worked at TPR now for the last five years and I have used that time to develop a deep understanding of what it takes to operate an effective regulatory system. It is a fine balance between setting rules and applying principles and understanding how that balance perhaps needs to change over time as the issues change. Those are three important areas that I bring to the role.

In terms of what I seek to get out of it, you can perhaps see from my CV that I pick roles where I feel I can contribute to making the system work better for the individuals it serves. Being part of that would give me a deep sense of satisfaction.

Q2 Selaine Saxby: Thank you. You have been on the board and have also been acting chair. I wondered whether your time there, particularly in the acting chair role, has changed your understanding of taking on the permanent position.

Sarah Smart: I have been acting as interim chair since the beginning of April, since the Easter break. There fortunately have not been huge issues arising during that time, but during my period working with TPR I was acting as a senior independent director and was required to stand in for Mark when he was away or unavailable at points in time.

I will be using that experience to understand the connection that the chair and the chief executive have as a support to bounce ideas off and, where there is a requirement to get involved in a bit more depth in some issues, to act as a guide where there may be other areas the executive has not considered initially to think about and to be available for that support and also to challenge. That is a key role as chair rather than as a non-executive director.

Q3 Selaine Saxby: Are there any areas where you feel that you could benefit from more knowledge or experience?

Sarah Smart: Yes. I feel comfortable in the areas of pensions, acting as a non-executive, and regulation.

The area I still feel a relative newcomer to would be the workings of the public sector and the interactions of the organisation with the Government and with Parliament. I have taken opportunities in the five years I have been on TPR to expand my knowledge in that area, but I recognise that moving into the position of chair would be a step up in that respect. I would certainly be seeking to draw on my colleagues in TPR to help me develop skills in that area and also expand my external network and take those opportunities to learn and develop in that area.



Q4 Chair: Sarah, you have told us that your husband is the chief executive of the British Airways Pension Scheme and that he is planning to leave that job. Tell us a bit more about those plans and how you will manage the possible conflict of interest in the meantime.

Sarah Smart: Certainly, yes. I know this is an area of interest to the Committee and I would like to reassure you that the transparent management of conflicts is fundamentally important to me and I understand its crucial importance to this role.

Fraser and I discussed when I first applied for the role how we might manage the conflict if I were to be appointed, but I am sure that the Committee will understand that at no point was it assured at any time that I would be successful or would be the preferred candidate. There are some timing sensitivities around that. As soon as I learned that I was the preferred candidate, Fraser began discussions with his boss and with the scheme about how he might effect his departure from the role while also protecting the savers within the scheme. Because of the seniority of his position, just walking out one day was clearly not going to work in the best interests of the savers.

Those negotiations and discussions are ongoing. The current position is that Fraser would stay on to see through the valuation that is currently in progress. It is anticipated that will finish in September of this year. He then will seek to start the handover of his role. If I am appointed and it is possible for him to leave earlier, then that opportunity will be taken.

I would like to also explain how the conflict has been managed to date and how it would continue to be managed until such time as Fraser is no longer in the position or if anything were to come up in relation to the time when he did hold that role.

Non-executive board members do not take any part in the day-to-day casework that goes on within TPR so we are not, as a matter of course, involved with any decisions in relation to pension schemes. Board members do receive updates from time to time on particular cases and there have been updates provided from time to time on British Airways. We are informed in advance of the nature of the schemes in the updates provided. Conflicts are declared as necessary and no information is given to any conflicted member about those schemes. Those members leave any discussions or meetings where those schemes are mentioned. Those conflict management protocols have worked well and I propose that they continue to operate until such time as Fraser is no longer in the role.

Further, if I were in the position of chair, occasionally the chair does have closer interaction with the case teams from an oversight perspective as to what might be going on. I would propose that an alternative non-executive director is nominated in advance so that if there were any need for the case team to bring a non-executive member in to work more closely on this scheme, we already know in advance who that would be.



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Q5 **Chair:** To clarify the position, has Mr Smart given his notice for his current job?

Sarah Smart: He has not given his notice in yet because I have not been appointed to the position yet. Those discussions are ongoing.

Q6 **Chair:** If you were appointed, is it the expectation that he would then straight away hand in his notice, albeit not to take effect until September?

Sarah Smart: If I were appointed, there would be an agreement reached about him leaving his position, yes.

Q7 **Chair:** He would give in his notice?

Sarah Smart: Exactly how that is effected I am not sure. The result to be achieved is the same, yes. He would be leaving the position.

Q8 **Chair:** You have explained how the potential conflict has been handled so far. As you have said, the role of chair is a bit different from the role of other board members. How credible is it that you would have no involvement at all with anything to do with that scheme before your husband departs?

Sarah Smart: It works well at the moment in terms of board members having no involvement with schemes where they have potential conflicts. The only case where closer involvement may be required by non-executive members is where there is some in-depth activity happening with those schemes. That has happened on a couple of occasions, but we have had work before where it was not the chair who worked more closely with the case. That was certainly the case with the British Steel Pension Scheme in the past. It is a tried and tested methodology whereby there would be another non-executive board member who is able to work more closely with the team if it was required.

The operational work of handling case situations for particular schemes is not the role of non-executive board members. Our expert teams do that on a day-to-day basis.

Q9 **Chair:** Are you confident that you would be able to do this job without having any involvement at all in anything to do with that particular scheme for the time being?

Sarah Smart: Yes, I am very confident.

Q10 **Chair:** What about after he has left? It is possible there might still be future conflicts here. Would you continue to have no involvement with this scheme after he has left?

Sarah Smart: That would be the sensible course of action, yes, that I would continue to not have any involvement and that if there is some more in-depth work required, it is undertaken by another member of the non-executive board. As we have seen in cases in the past with TPR, what can come up at any point in time is not restricted to that year or the



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year before. It will draw on, necessarily, the situation of the scheme over a number of years. Because perhaps something may arise in the scheme in five years' time or five years after Fraser may have left, it does not mean that what happened during Fraser's tenure is not relevant.

Q11 **Chair:** You would envisage not having any involvement with this particular scheme indefinitely as chair. Is that right?

Sarah Smart: For the period of my term, it would seem sensible. It is perfectly doable and it does not detract from our ability to manage the regulation of that scheme in any way. I see no reason why we would need to introduce that potential for conflict.

Q12 **Chair:** Thank you. You declared this interest, as the rules require, to TPR but it did not appear on the published register because TPR's practice has apparently been not to include the interests of connected parties in the summary of the register that is published. Were you aware that his role did not appear in the published register?

Sarah Smart: First, I would like to thank the Committee for highlighting this area for potential misunderstanding.

I was aware that when I was asked to declare my conflicts to TPR it was fully declared. When I completed my register as requested, I completed it. Now, when asked to look at them side by side, yes, it is clear that one had that conflict on it and the other did not.

The transparency of conflicts and how we deal with that for the public is important to TPR. I have asked the board secretariat, supported by the general counsel, to review what we declare publicly in terms of conflicts through the lens of whether a member of the public would gain a reasonable understanding of all the conflicts we may be exposed to and how we are managing those. I expect that they will bring recommendations shortly to the board on any changes we might make.

I did also request as a matter of urgency that my own record was amended on the public register and I understand that that has now taken place.

Q13 **Chair:** As that review is under way, is it your view that the interests of board members' spouses should be in the published register?

Sarah Smart: The public register should enable a member of the public to draw a reasonable conclusion as to the relevant potential conflicts that individual board members are exposed to. We have that review under way. But I understand that it is published by other regulatory bodies and other organisations, so I imagine that will be an area where we will seek to make improvements.

Q14 **Chair:** You would expect that to be published in the future. When do you expect that review to be completed?



Sarah Smart: We have a board meeting due in the middle of May and I have asked that recommendations are brought to that meeting. I would hope that any recommendations agreed by the board are implemented as soon as possible after that.

Q15 **Nigel Mills:** Sarah, there is a concern I want to think through. We have had challenges with the regulator in the past about whether it has been proactive enough in stepping in to take action when schemes have hit trouble. In the, I am sure, horribly unlikely event that anything did happen to the BA scheme and action was required by the regulator, it would be a huge issue. It would be one of the biggest pension schemes ever to hit trouble in the UK.

Is it realistic for the chair of the board to wash her hands and say, "I am not in the room. I am not involved in this at all. It is nothing to do with me"? It feels quite hard that you could not have any involvement in an issue as large as that would be.

Sarah Smart: As a member of the board and as chair of the board, I expect to be fundamentally involved with how we strategically manage pension schemes and our activity of regulating pension schemes in terms of how closely we interact with trustees, the clarity of the information and guidance we provide to them and how quickly we act when we observe behaviour we are not comfortable with. To the extent that I might be asked to comment on those general strategic principles of how we operate, I would feel absolutely able and responsible for doing that.

When it comes to applications for that particular scheme, the application of those strategic principles on an operational basis is undertaken by the experts within the teams. That operational responsibility is first and foremost with the teams and the chief executive.

I believe, as we have seen in other cases, that others will be able to provide appropriate information and face appropriate scrutiny in relation to that scheme were it to be necessary and certainly for me to face appropriate scrutiny in terms of the strategic activities that TPR has in place. I do feel it is perfectly acceptable if a situation arises like this for me to say, "I cannot comment on that particular case and there are others who are able to do that well, but I comment on the overall activity of TPR".

I do bring 20 years of experience within the pensions industry. It is, I hope, understandable that I will have developed touchpoints within that time that can deliver real value for TPR. There are potential conflicts that come with that, which need to be managed, but I do believe they can be managed in an appropriate way.

Q16 **Nigel Mills:** Yes, I accept that we want someone who knows how the pension industry works to be in your job and that means you will have been places and met people.

But I presume one of the roles of the board and the chair is to look



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through the risk list of the schemes you are most concerned about and the ones that would have the biggest impact if anything happened. It is not entirely unfeasible to think that large final salary schemes in the travel sector have had a difficult year.

I have no idea whether the BA scheme appears on that list and I do not need to know that, but does that make it quite hard for you even to see that list in its entirety? Presumably, it would give you information or otherwise about the BA scheme, whether it is there or not, and what is going on. Is it possible for you even to do that part of the job without having information on one of the biggest schemes that may or may not be on the list?

Sarah Smart: It is possible to do that part of the job and to see the list because schemes are on the list, as you say, possibly simply by virtue of how big they are, what sector they may be in and the systemic risk they may present regardless of drawing any conclusion as to whether there are issues within them that give us cause for concern.

However, we are in the process of looking at that list and the extent to which it provides useful information for the board on an ongoing basis as to how we are managing the strategic risks in the system. Part of my priority is to ensure that TPR is protecting the benefits of savers across the pensions industry, not just those within the big schemes. One downside of that list is that, in a common phrase, "What gets measured, gets managed", and it can concentrate attention on those big schemes sometimes without understanding how we are also protecting members of smaller schemes.

We are currently looking at ways we can enhance the information delivered to the board to give us that understanding of how we are spreading our regulatory resource across all savers in the way we need to. While we do still look at that list, there may be a point in the future when we do not look at it in the same way.

Q17 **Nigel Mills:** Your husband has planned not to work for another large pension scheme. It seems a bit harsh on him that he cannot earn a living because you have a job. Are we just moving the issue from the BA scheme to a different one here? If he took a job somewhere else, he would declare it and manage those interests. Is that probably the best you could do?

Sarah Smart: Yes, I am afraid I have told him that this does not give him an excuse to be a kept man for the rest of his life. You are absolutely right. We have discussed and agreed that a role within a very significant pension scheme would not be appropriate for him if I were to be appointed to this role and while I am doing it. He will look at opportunities in other sectors.

He may look at potential opportunities within the pensions sector, but the proposal is that those would be declared well in advance of him taking any role both to TPR and to the Department and a collective view would



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be taken as to whether that potential conflict is manageable or not. He has told me he is happy with that.

Q18 **Chair:** Was this issue raised at the panel interview when you were interviewed for the job and was it raised in the discussion with the Minister when you had that?

Sarah Smart: It was raised in the panel interview, yes. I did not then have a discussion with the Minister subsequent to the panel interview.

Q19 **Chair:** You did not have a discussion at all or you did not discuss this particular point?

Sarah Smart: I did not have a discussion at all.

Q20 **Chair:** In the panel interview, you went through, I imagine, what you have told us?

Sarah Smart: Yes. In the panel interview, I had no certainty by any means that I would be the preferred candidate, so at that stage we had a discussion. I had had a discussion in advance with Fraser and I said that there was a conversation to be had if I were to be the preferred candidate for the role.

Q21 **Sir Desmond Swayne:** You are planning to continue working on an investment monitoring tool with SmartCats. Who will use it? Is there the possibility of a perceived conflict of interest whereby SmartCats would benefit from the kudos of having its tool developed by the big cheese at The Pensions Regulator?

Sarah Smart: The intention is that the tool will be able to be used by anyone making strategic investment decisions over a pot of money that they manage. That has applications within both the institutional investment space and the retail investment space. I can go into detail but I will probably not bore you with that at the moment. Potential trustees of DB schemes in the UK are a potential customer group for that.

I absolutely recognise that there is a perceived conflict there and I took very early steps to manage that with my development partner for this. I proposed that, if I am appointed, I would have no role in any discussions in terms of the use of the tool by any entity regulated by TPR and that my involvement is not publicised in any way or used to publicise the tool to that audience. If I am appointed, we will be bringing in additional personnel to take on that role, which I would not be able to do. I will be taking a consequent reduction in my equity holding to cover that.

Q22 **Dr Spencer:** You clearly have a wide range of interests in this area. What other professional or voluntary activities do you anticipate taking up or continuing with alongside the role that you may be taking up at TPR?

Sarah Smart: The only other role that I would plan to keep on if I am appointed is the role as co-founder of the investment monitoring tool company.



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I currently hold a couple of other industry positions. I have let them know that if I am appointed I will need to step down, so I would not be continuing with them.

The other position I hold is managing partner of a family partnership, which holds some property assets. We are in the process of divesting those assets but, if that does not happen and if I am to be appointed, I have been engaging with a handover process with my sister over the last few months so would not have any time commitment in relation to that.

I very much anticipate that this would be my priority commitment. I am aware of the time that it takes to chair a large organisation and that it is frequently more than the advertised time requirement. I will be available to give to the role the time it requires.

Q23 Dr Spencer: There is a lot of home working at the moment, but when there are more people back in offices, how much time would you expect to spend in the office per week?

Sarah Smart: In my experience, it varies from time to time depending on what is happening. I anticipate that on average I would be in the office possibly one day a week but engaging much more actively with individuals on an ongoing basis and also undertaking public meetings with stakeholders on an ongoing basis, so perhaps a day a week doing that as well. While there is a requirement of two days a week for the job, I do not necessarily see that requiring me to be sitting in the office in Brighton for two days every week. I imagine that in the normal course of events at least one day a week I will be onsite.

Q24 Chris Stephens: Good morning, Sarah. You will know that the Select Committee regularly passes comments on our assessments of The Pensions Regulator's performance, thinking in particular in the past few years around Carillion and the British Steel Pension Scheme.

We will come back to that but, first, what is your assessment of TPR's performance over the past few years?

Sarah Smart: Over the past few years TPR has made good strides in delivering improvements and changes, having learned from some of those situations that you have described. If we look back to the roots of what was happening, a lot of that took place after the financial crisis in 2009 to 2012. With the work that TPR has done to learn from those issues, which were clearly devastating and distressing for the members involved at those times, it has put in place good changes to learn from those.

The clearer, quicker, tougher regime has been implemented in a number of areas. We are much clearer in our expectations of pension schemes in relation to their annual funding statements. There is also a delicate balance between looking after the sustainable growth of the employer and looking after the scheme. Certainly, the guidance that TPR issued



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during the first days of the coronavirus crisis was well received in that regard.

We are quicker in terms of the supervision team that has been put in place and is working much more quickly with trustees to understand issues. We have seen a number of cases where that has delivered good results in terms of improved outcomes through funding negotiations in the case of First Bus perhaps or Southern Water.

Also, we are tougher. In the last few years, the range of powers, including criminal powers, that TPR has used that have never been used before is quite a long list. I know that the Committee is aware of some of those in relation to scams and, for example, use of the Proceeds of Crime Act to recover moneys for victims of scams. There has been important work done that we can see there on being clearer, quicker and tougher.

For me, some of the internal workings that underpin that are important as well. I do not want to be in a situation where I have to explain to the Committee that we have not been spending our regulatory resources on the right area or that we have not made good decisions. I am keen that we operate an internal process whereby I can get that assurance that we are covering those risks appropriately.

To give you a flavour of how it works internally now, our intelligence teams and risk assessment teams have been considerably enhanced in the last few years. That intelligence feeds into something we call Gateway, which takes a cross-industry look at the risks, the issues and the regulatory tools we have to address those and finds the best tool we can use for that particular risk and that particular issue to make sure we get the best coverage we can across the whole system.

Q25 Chris Stephens: Thank you for that comprehensive answer there. You have outlined what you think some of the key achievements are as well.

The Committee is looking at the Rookes review into the restructuring of the British Steel Pension Scheme and the production of an action plan. How effective have the outcomes of that action plan been in helping to pre-empt similar problems in the future?

Sarah Smart: We have been working closely with other stakeholders to implement the action plan arising from the Rookes review in full. We have set up the Pension Savers Steering Group, which meets quarterly to identify those areas where we can provide further guidance to trustees and schemes about where they need to gather information or connect with their members to make good decisions.

We have seen that come to the fore during the pandemic as we have clearly identified the risk that members may be feeling under greater pressure to take transfers from pension schemes or may be approached to do that by fraudsters. Some of the communication we issued at the beginning of the pandemic, the Stop and Think campaign and the Scam



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Spark campaign, has all been driven through that work and has shown good steps forward in addressing those risks.

- Q26 **Chris Stephens:** How complete is the implementation of the action plan, Sarah, including the discussions you are having with the Department for Work and Pensions?

Sarah Smart: We are constantly working on this. Some of these things will not necessarily ever be complete because they are actions we have to undertake going forward all the time. The procedures are in place and the activities are in place, but we will never consider them to be complete because they are learnings in terms of engaging more fully with trustees and schemes. Providing them with greater information and responding to the particular risks in place at any one time is always ongoing.

- Q27 **Chris Stephens:** Here is a question that I am sure you have been asked, and we as a Committee always look to see if we can get an answer to this question. Do you believe that The Pensions Regulator has sufficient authority to ensure that all necessary actions are carried out to protect the public interest? If not, what additional authority does The Pensions Regulator need?

Sarah Smart: TPR has a very broad remit and we seek to use the full extent of the powers we have at the moment to deliver maximum benefit and protection for savers and for members. There are, though, areas where potentially additional powers may be useful and additional areas where we could act differently or encourage the industry differently. It is important for us to gather information on those risks and to understand them if we are drawing conclusions on that.

We are clear that additional power is required at the moment in the area of superfunds. We see consolidation as potentially beneficial for members but it has to be done in an appropriately controlled way. We have an interim regime at the moment and we are working closely with all those entities that are seeking to be active in this area. We are also giving appropriate guidance to trustees in this area. But it remains a voluntary regime so it may be difficult to exercise our authority if there are individuals or entities that seek to not work with us on the protection of savers.

Our job is to constantly evaluate the risks within the system both now and emerging and to have a thorough conversation and collect data as to whether there are other areas where greater authority or greater powers would be useful.

- Q28 **Chris Stephens:** There are some major areas that, as chair, you will be asked to fully resolve in future. One is the transition from defined benefit to defined contribution pension schemes. Who are the winners and losers in that transition? Should that have been allowed to happen in the first place? What can still be done to help the losers?



Sarah Smart: The transition from defined benefit to defined contribution is absolutely at the heart of TPR's strategy, which we have recently consulted on and set out for the next 15 years. It is inevitable, we believe, and our job is to make sure that members in defined contribution schemes can be confident that they will be able to retire with a scheme that delivers according to their expectations.

In terms of winners and losers, my hope and my goal is that all members of defined contribution schemes can absolutely rely on them for their secure financial future and their pension savings, but it is a different sort of scheme. It concerns me that we might have a potential future situation where members have been saving within defined contribution schemes for their whole lives and yet do not have the confidence or the ability to retire with the financial security they expected. That is a concern for me and a concern for TPR and our strategy is absolutely designed to guard against that over the next 15 years.

The areas we have set out are in terms of decision making—individuals generally do not decide which defined contribution scheme they go into in a workplace—and understanding who is making those decisions on their behalf, that they are making good decisions to put them in the best place for the future, that value for money is being achieved within those schemes and giving them the best chance to deliver appropriate outcomes, that the schemes are well governed and that the moneys are protected when individuals are seeking to take benefits from those schemes.

Q29 **Chris Stephens:** In your position as chair, there will be non-governmental stakeholders. How do you intend to build and maintain relationships with them?

Sarah Smart: Non-governmental stakeholders are crucial to our ability at TPR to deliver on many of the areas in our remit. We work closely now with the Pension Protection Fund. We communicate at all levels between the organisations.

With the Financial Conduct Authority we work closely together on Project Bloom. I have a full day in front of the screen today. When I am finished here, I will attend the joint audit and risk committee of the Financial Conduct Authority. I work closely in my role as audit committee chair at TPR with both chairs from the FCA. I would anticipate that that relationship continues, perhaps at a different level.

When we come to look at the dashboard delivery programme, working with the Money and Pensions Service is very important.

There are also areas within the industry. I would like to hear from individual members. Something that we do with the *Financial Times* scheme is we have members of the scheme who come and talk to the governance committee once every year to tell them how they engage with the scheme and whether they pay, frankly, any attention to it. That



is insightful for us as a governance committee. Hearing from savers is important as well.

There are also other regulators that might be less front of mind at the moment. One particular example is ARGA—which makes me think of my kitchen—the Audit, Reporting and Governance Authority in relation to actuaries, covenant advisers and accountants for schemes. These are critical advisers to schemes that have an important role in the outcomes delivered for savers. That is a crucial stakeholder to engage with as well.

Q30 Chris Stephens: I was curious that you described yourself as a relative newcomer to the public sector. What lessons would you bring from your private sector experience in this enhanced role in the public sector and ensure that the interests of the general public are represented and protected?

Sarah Smart: While I am a relative newcomer to the public sector and the public accountability that comes with it, accountability has always been important for me and is absolutely essential to maintain.

Perhaps the best example to give is when I chaired the Pensions Trust or TPT Retirement Solutions. We looked after schemes and savings for over 300,000 members. That was a mutual organisation owned by the members. Sometimes in a mutual organisation it is easy to feel unaccountable. I remember being slightly shocked when I was at Standard Life and we were going through the demutualisation process. I went to a forum and was told, “Now we are not mutual anymore, we have to worry about profitability”. I wondered why we had not had to worry about it before.

Even when working in a mutual, it was important to me that we were accountable to our members. I set up sessions where we had webinars that members could join to look at the whites of our eyes on a real-time basis and ask us questions. I was personally accountable to them.

I would like to bring that experience into the role here if I am to be appointed and put that accountability to the public as front and centre of what we do.

Q31 Steve McCabe: Good morning. You mentioned earlier the 15-year strategy that has recently been published. That strikes me as quite a long time. It could conceivably outlast your own tenure at TPR. How involved were you in drawing that up? Is it your strategy? Do you own it?

Sarah Smart: I do not personally own it. It is the organisation’s strategy, but I was closely involved in drawing it up.

In the process we went through, we held a number of board away days when non-executive and executive board members and also colleagues from throughout the organisation and particularly the strategy and risk team sat down and went through a number of workshops to identify the risks we perceived for the future and how we would develop and deliver a



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strategy to address those. There were a couple of board discussions on that and a subgroup worked more closely with some of the executive members and members of the strategy team to develop that strategy. I was a non-executive member of that subgroup.

I do feel closely involved with how that strategy has been developed. I fundamentally believe that it defines the areas TPR needs to take forward over that time period, but I would not exactly call it my strategy because it does have the full buy-in of the board and the organisation.

- Q32 **Steve McCabe:** I am curious about the 15 years. That strikes me as a long time. A criticism of TPR in the past was that it was a bit rigid and always seemed to be a bit behind the curve when it came to things that were happening in the pensions world. How will you ensure that this strategy is flexible enough? If they are remotely like the last 15 years, things could change pretty dramatically in the coming 15 years.

Sarah Smart: Absolutely. This strategy needs to keep us focused on where we need to take TPR and the general direction over 15 years without limiting our ability to respond to specific threats and situations as they arise. I agree with you that over the last 15 years things have changed dramatically. However, even 15 years ago we were already having conversations and the writing was on the wall in terms of the transition from defined benefit to defined contribution. That central theme sits at the heart of this strategy. The requirement for TPR to move in that general direction is absolutely fundamental.

But there are short-term issues to address. As I have highlighted, the economy and how employers fare as we come out of the pandemic and the economic situation that presents itself will be a fundamental issue that TPR will have to address. We are prepared for that.

We have developed and are in the process of delivering our corporate plan, which will set that out for the next year. We intend to show in our corporate plan now what we will do in the next year and then the lead-in to the two years after that. The public will be able to see not only our 15-year strategy and what we will be doing for the next year but how we intend to make steps in the following years towards delivering that longer-term strategy.

- Q33 **Steve McCabe:** I guess you are engaged in a bit of forecasting. Is this going to last 15 years? What is my chance in five or six years of reading the update proposals?

Sarah Smart: We have to be engaged in forecasting to enable us to have systems and processes in place to react to the issues we believe will be present. We will do that on a continuous basis. For example, if in five or six years' time we do not have 30,000 defined contribution schemes in the landscape but we have, let's say, 40 DC saving master trusts, the fundamental principles in terms of our strategy, value for money, decision making and embracing innovation will still be relevant for that



situation, but how we effect that will be different whether we are looking at 40 defined contribution schemes versus 30,000.

Q34 Steve McCabe: As I understand it, the strategy is premised on the idea that the shift from defined benefit to defined contribution will continue.

Are you taking account of other developments? The collective defined contribution is one emerging hybrid. I do not know what else is in the offing. Are you capable of responding quickly if there are significant shifts in the market? I know that one priority is embracing innovation. I do not know what you are anticipating. Give us a flavour of that.

Sarah Smart: We are absolutely capable of responding to changes in the market. We have seen that in the past as the master trust situation developed and as those schemes developed. We worked closely with the DWP on how we could best regulate and oversee that area of the market. Similarly, as superfunds have developed, we have been working closely to ensure we can regulate those appropriately.

I personally have a background in collective defined contribution, so it is an area that I fundamentally believe in and that I understand well. We are well placed to respond if those schemes do gather pace and become prevalent within the market.

The fundamentals for those things are similar to what we see within defined benefit and defined contribution in terms of the bedrock of making sure that those systems work for savers, that there is good governance, good decision making and value for money, and that things are delivered appropriately for savers. That sits at the bedrock of the strategy and it, therefore, covers a number of bases.

We are not complacent about the fact that something completely different may arise. Particularly within the online world with new entrants, something could be being worked on at the moment that we do not have any knowledge of. That intelligence function and the scanning of the marketplace is fundamentally important to us to get early sight and early warning of what might be happening so that we can use our skills and capabilities to respond to that appropriately.

Q35 Steve McCabe: I am guessing that the majority of the work in designing the strategy will have taken place before the pandemic, so I am wondering what you think the impact of the pandemic will be. I am thinking particularly about the suspension of deficit repair contributions, the increase in defined benefit deficits, smaller pots for defined contributions and issues about people taking money out of their pots. I presume most of those issues have been affected by the pandemic and would not necessarily have been factored into the early stages of the work on the strategy. How will you manage that now?

Sarah Smart: You are right. The pandemic has impacted all of those areas—the pension system, the strength of employers supporting defined benefit schemes, the ability of employers to make contributions into



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defined contribution schemes and also the decision-making of individuals when they are looking at their pension savings if they are having to contend with severe financial circumstances. Those have all been exacerbated by the pandemic but they are always there and they are at the heart of our strategy in terms of the security we have as our No. 1 pillar within those. That will enable individuals to make good decisions as well as those who are making decisions on their behalf and make sure that the money put into defined contribution schemes from a value for money perspective delivers as much as it possibly can for those savers.

It is fair to say that we do anticipate that there will be enhanced work to do as a result of the pandemic. We are interacting with trustees to understand the situation their employers are in. There is a danger for us, potentially. When we look at the financial crisis, there was a real pressure then for a blanket thrust towards investment in business and perhaps not prioritising pension deficits at that time. We need to be careful that we do not fall into a similar trap again.

TPR learned the lessons of the past and we are clear that the situations employers and schemes find themselves in as a result of the pandemic need to be dealt with on a case-by-case basis. We have issued guidance to trustees about how they can interact with their employer when they are struggling financially. We remain of the view that a strong employer is the best support there can be for a defined benefit pension scheme, but these cases need to be dealt with, as I say, individually on a case-by-case basis.

With our supervision teams in place now, with the annual funding statement that we provide and with the consultation work we have done on a defined benefit code, which follows up from the integrated risk management work, there is much greater clarity now for schemes and trustees about our expectation for them and how to deal with employers facing difficult financial circumstances.

Q36 Steve McCabe: Do you anticipate a pension crisis or a significant serious incident any time in the next five years?

Sarah Smart: I would absolutely hope not but I do not, I am afraid, have a crystal ball, so I cannot say what will happen in the next five years. I can say that TPR has made great strides over the last years to ensure that it is well prepared to react to any situation that might arise. Certainly, if I were appointed, I would be making it a priority to ensure that the way we conduct our regulatory activity would minimise the risk of that happening.

Q37 Chair: Sarah, most people take the view that auto-enrolment has been successful. How should the arrangements be developed over the next few years? In particular, what can be done to ensure that auto-enrolment better supports self-employed people and people working in the gig economy?



Sarah Smart: We would agree that auto-enrolment has been a great initiative. Over 10 million are now enrolled in pension schemes as a result and are saving for their future when they might not have been before.

The critical areas that we worry about in terms of the pension system are participation, adequacy and security. Auto-enrolment speaks to those first two particularly well. We have driven up participation through auto-enrolment, but there are still areas of the working economy that are not necessarily captured by it.

In terms of adequacy, it is well acknowledged that some of the levels at which contributions are being made into defined contribution schemes may not deliver the outcomes expected by individuals. If we look, for example, at the PLSA's retirement living standards that were published a year or so ago, even those levels may be challenging with some of the contributions being made.

At TPR we work closely with the DWP to understand the issues within the system in terms of young people not being brought into the system, people who have multiple employments sitting under the lower earnings limit, those who are not considered to be workers not being captured by the system, and the level of contributions made and the extent to which more could be put in at a level that does not become unaffordable for employers. We recognise all of those issues. We are working with the DWP as it delivers on its commitment from the 2017 review to implement appropriate changes within the mid part of this decade.

A priority is to reduce pension inequality in the UK. It is a stated strategy, for example, in our diversity and inclusion policy. We absolutely support the endeavours being made to think about these things, but they sit within the remit of the DWP.

Q38 **Chair:** Is it your understanding after the recent court case that Uber drivers will come into auto-enrolment?

Sarah Smart: When Uber drivers are considered to be workers, it is the responsibility of their employer to auto-enrol them. TPR will absolutely be ensuring that employers face up to and comply with their responsibilities where necessary.

Q39 **Nigel Mills:** Going back a couple of questions to your working relations with the FCA, is it right to have two separate pensions regulators—or at least two, arguably—or should we remove the line and have all pension schemes regulated by one regulator?

Sarah Smart: First, I recognise that TPR has a large remit and other committees have recognised that the FCA's remit is also quite significant. There is certainly a lot of work to be done.

I see regulation as societal risk management. It is always sensible from time to time to look at how risks have emerged and developed to see whether the processes in place to manage those risks continue to be the



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best processes or whether they need to be adapted or tweaked from time to time. I would absolutely expect that at points in time it is sensible to look at the risks we face across the financial industry or across pensions and to ask what the best way is of regulating those risks.

When the time is appropriate to have that discussion, absolutely, TPR will be an essential party to those discussions. I would not seek to preface at this time what any of those discussions or reviews would come up with.

Q40 Nigel Mills: I guess I am asking you for a land-grab on day-1, but it is a bit strange that you have the duty to look after auto-enrolment but a lot of the schemes people auto-enrol into are FCA-regulated rather than TPR-regulated. Does that seem like an anomalous situation?

Sarah Smart: Things develop. The Pensions Regulator was set up 15 years ago and it has picked up additional statutory responsibilities and statutory duties over that time. It is always sensible at points in time to look at how the system has developed and then ask what the best way is of regulating and organising that.

At the moment, TPR has the statutory duties and responsibilities that it has and it is critical to us to ensure that we are fulfilling those statutory responsibilities to the fullest extent possible.

Q41 Nigel Mills: You mentioned that there is a large number of small schemes still out there. Is it your view and is it the view of the board that we should be encouraging those schemes to combine and merge or is that something for the market to determine as time goes on?

Sarah Smart: I would never say that it is not possible for a small scheme to be thoroughly well governed and well managed because it absolutely is. However, TPR has collected much evidence to show that it is more likely that a scheme will be better governed and better managed when it is more scalable and more sizeable. That evidence is behind the view that consolidation both in DC and in DB can deliver improved benefits for savers.

That comes with difficulties. From having worked in this area to quite some extent when I was chair of the Pensions Trust, it was evident that consolidation, where it delivers value for savers, is a bit of a zero-sum game in that it might then detract value from others within the industry. A favourite example is that we have over 5,500 defined benefit schemes that are each individually paying 5,500 actuaries to tell them what their view of inflation is, which are rarely very different one from the other. That seems a real inefficiency within the system. If we can get greater consolidation, we can take some of those inefficiencies out, but that does mean changes for providers in the system. That can create some difficulties in terms of those who are advising schemes to make sure that the best interests of the savers and value for money for savers is at the heart of what schemes are advised as to where they should be seeking to go.



Q42 Nigel Mills: That sounds like a bit of a steer. If I were a trustee of a very small scheme, I might think the advice was, "Go and find a consolidation option for yourselves because we do not think you are efficient enough". Is that what you are saying without wanting to give an explicit instruction?

Sarah Smart: There is no reason why a small scheme cannot be delivering value for money and good governance for its members, but our evidence suggests that it is more difficult for small schemes to do that, hence the requirement both from the DC chair's statement and from the recent work undertaken by the DWP to ask small schemes to demonstrate how they are able to deliver value for money compared to some of the other bigger solutions available in the market.

Q43 Nigel Mills: What is your vision for the future of trustees? At times it seems that we want The Pensions Regulator to be like a super trustee for every pension fund, which delegates the occasional small decision down to trustees but gives them little flexibility in how to operate. Then, at the other extreme, in theory, the trustees are entirely responsible and can do whatever they think is in the interests of members. What do you see as the future? Where is the line drawn between tight control from the centre and almost complete freedom?

Sarah Smart: I would describe trustees as our first line of defence to ensure that savers are well protected and will receive the benefits and outcomes they expect. I have worked as a professional trustee and have worked with many lay trustees. I am a fundamental supporter of lay trustees. I am also a believer that professional trustees have a huge amount to offer the system. The evidence supports that where professional trustees are used, generally schemes are better governed. The majority of trustees out there are doing a good job and absolutely at their heart their intention is to protect the outcomes and benefits for savers. TPR can use that as our first line of defence.

But it is important for us to be clear with them as to our expectations and to help them deliver on those for savers and to take action when we see those trustees not delivering appropriately on their responsibilities.

Q44 Nigel Mills: You said earlier that your view was that defined benefit pension schemes would continue to disappear and that there might be a few in 10 years' time but not that many open ones. Is that inevitable or is there a way to re-energise that market? It is the way to give people the best pensions, but your view is that its time has been and gone and we have to move on to other things.

Sarah Smart: The move from defined benefit to defined contribution has been steady and consistent over a number of years. It reflects the way that patterns of work in society have changed.

There remain employers that individuals work with for the majority of their lives. In that situation, a defined benefit scheme is a great pension scheme and works extremely well. There is no reason why, for those



types of industries and those types of employers, defined benefit schemes should not remain open and continue to thrive.

But it is more challenging when individuals move between many jobs during their working lives for a series of defined benefit schemes to work and offer them a good and, particularly, understandable outcome. I see that the growth of defined contribution schemes has reflected how society works these days in the majority of cases.

Q45 Nigel Mills: In case you are appointed—and you have been around TPR for a fair while—if I asked you how well it is performing, just before you take over so we can use it as a benchmark, what mark out of 10 would you give it?

Sarah Smart: I would choose to say that TPR has learned the lessons that were important for it to learn when I was starting on the board five years ago and that it has made huge improvements in key areas during that time. But as those who have worked with me will know, I constantly challenge myself and those I work with to continuously improve. I would like to be able to say at the end of my tenure if I were to be appointed that we can see a pattern of continuous improvement during that time and reaction to the situations and risks that emerge.

Q46 Nigel Mills: You are getting into public sector language. You will make a politician with an evasive answer like that. It sounds like it is not a 10 out of 10 and not a 5 out of 10. Is it a 7 or an 8, roughly?

Sarah Smart: We have learned the lessons but there will always be improvements to be made and changes to be made to react to new difficulties.

Nigel Mills: I am not going to get you there, am I? Chair, thank you.

Q47 Siobhan Baillie: Thanks for your time today, Sarah. I am pleased that you like a challenge and you want to see continuous improvements.

An area we are particularly concerned about—and so is the public—is pension scams. We created a report recently and we recommended increasing awareness of pension scams to the public through the ScamSmart campaign and also to the industry through the TPR's pledge. You may have seen that the Minister has also subsequently come out strongly and is looking at the social media platforms and internet platforms like Google.

I am interested to know your views on how much work needs to be done in this area and the size and scale of the challenge that you see for TPR to bring together and co-ordinate other bodies. From some of the stories we were looking through, it really is quite harrowing what some families and individuals have had to go through.

Sarah Smart: I know my TPR colleagues share this view and I welcome the work of the Committee in this area because we absolutely recognise



its importance and how devastating scams are for the individuals who suffer at the hands of scammers.

TPR has a wide remit and we have to balance our regulatory resource across many different priorities. It probably would not be impossible to spend our entire budget trying to stamp out the scourge of scammers but that is not a situation available to us. We do have to work collaboratively with other regulators within the industry, with trustees within the industry and with savers themselves to protect individuals as much as we can from scammers. We recognise that there is continuing work to do here and we will continue to do what we can across a number of different areas.

We have seen the ScamSmart campaign trying to educate individuals because, if we can achieve that, it will have the best outcome for savers. We are pleased to see the Pension Schemes Act 2021 restricting the right of transfer and we will work closely with the DWP to bring that into action as soon as possible.

We are working with the industry. There is a real role for industry to play its part, signing up to the scam pledge and doing everything to educate their savers. In my Unilever role, which I will shortly be stepping away from if appointed, we have been looking at some benefits changes. It was a fundamental thing that the trustees kept talking about, asking if there is any evidence that scammers are targeting members because of what is going on. Across the industry, there is Project Bloom and the work that has been done there.

We all have limited resources and the more we can work across these different areas and work together, the better the outcomes for savers. Our resources will probably never overtake the resources of the scammers so we have to be smarter about how we approach protecting members' interests.

Q48 Siobhan Baillie: We definitely noticed in the evidence we received that there is quite a lot of fragmentation in the reporting and in the enforcement. If you were to be appointed, anything you could do to get all the leaders in the sector to knock heads and work together will be incredibly important.

You mentioned legislation. Should the forthcoming Online Safety Bill legislate against online investment fraud? The Government have said that it is not likely to and I am trying to do something else with this Bill. I have been told it should not be the "save the internet" Bill and we absolutely do not want it to fall down. I completely agree with that, but should that piece of legislation be looking at pension scams and financial scams?

Sarah Smart: The proliferation online of scammers has been exacerbated by the pandemic and absolutely wrecks people's lives. A



legislative response to that is required. The Online Safety Bill is a good legislative opportunity to deliver the protection required.

Q49 **Siobhan Baillie:** Finally, you mentioned Project Bloom and we heard evidence about that. It was set up in 2012. Developments in the tech and the scamming with everything that has happened have moved so fast in the years since its conception. Should the name change? Are there any recommendations to change Project Bloom and what would you like to see happen?

Sarah Smart: That is a good question and I confess it is not something I have considered before. If I was a member of the public and you asked me if "Project Bloom" immediately makes me think of something that is protecting my financial future from scammers, possibly not. It is an interesting area to look into.

Siobhan Baillie: It makes me think of florists. One suggestion is to change the name to the Pension Scams Centre. We have looked at that. Thank you very much for your time.

Chair: Thank you. That concludes the questions we wanted to put to you. Thank you very much for giving us such full and clear answers this morning. We are hoping to produce very quickly a report with our recommendation in it. Thank you for being with us. That concludes our open session.