Rt Hon Stephen Timms MP
Chair
Work and Pensions Committee
House of Commons
London
SW1A 0AA

7 August 2020

Dear Mr Timms,

**Norton Motorcycle Holdings Ltd**

Thank you for your follow-up letter of 24 June regarding Norton Motorcycle Holdings Ltd and the three pension schemes which made investments in it, which we last wrote to you about in April this year. We note that The Pensions Ombudsman (TPO) published a very helpful and detailed Determination in relation to the trustee and administrator of the three schemes on 23 June.

In response to your questions I hope the following responses are helpful.

1. **In the light of the determination, does The Pensions Regulator now expect to undertake further work on the areas of this case which fall outside the Ombudsman’s remit?**

   Following an investigation, in May 2019 we appointed Dalriada as the independent trustee to the three pension schemes which invested nearly 100% of their assets in Norton Motorcycles. Prior to the appointment of the independent trustee, Stuart Garner was the sole trustee of the three schemes. The appointment of an independent trustee to the three pension schemes ensured there was a trustee in place with appropriate knowledge, understanding and skill to administer the schemes and to protect the interests of the members of the schemes. Following the company administration of Norton Motorcycles, we continue to be in close discussions with Dalriada and the administrators to Norton.

   The Committee can be assured that where pension savers’ money has not been properly safeguarded by trustees, we always carefully consider if we can and should take forward regulatory action.

2. **What were the circumstances that permitted LD to administer the scheme? Is it possible that there are many other smaller schemes in similar arrangements?**

   Schemes are free to appoint administrators as they see fit, but administrators are not regulated by us. However, to assist trustees in appointing a suitable administrator, we provide guidance to help them ensure good standards of governance are maintained.

   In this case, the schemes chose LD Administration Limited and Liddell Dunbar Limited. The former was dissolved on 17 March 2020 and the latter has been in liquidation since 13
December 2019 making it highly unlikely that there are any schemes which are still administered by them.

As set out in my letter of 6 April, we appointed independent trustees, on an emergency basis, to a number of pension schemes between 2011 and 2014 with which T12 Administration Ltd was linked. We did not make appointments to the Norton schemes at that time. In making trustee appointments, we targeted our limited resources where we judged that they could have the most impact. We took a risk-based decision not to investigate the Norton pension schemes further during this period. However, as explained further in answer to question 3, we are currently carrying out an internal review which will consider our response at the time.

Though we do not have regulatory powers over administrators, their activities are clearly relevant to the fulfilment of our statutory objectives. That is why, under our new regulatory model, we have been strengthening our relationships with them. For example, when the pandemic struck, earlier this year, we reached out to administrators large and small, on a number of issues, collectively representing more than 40m memberships.

We believe that the risks of similar situations arising now are much lower as a result of our more proactive and assertive approach designed to bring our influence to bear over a greater swathe of the pensions landscape, but it remains the case that we cannot look at every single pension scheme or administrator.

Whistleblowing reports from scheme members and professionals are a key tool in identifying poor governance by both trustees and administrators. Such reports help us to identify schemes where regulatory action to appoint independent trustees or prohibit existing trustees may be needed to protect members. As regulator that has embraced change and improvements, our new regulatory model will help ensure that future similar cases are fast-tracked to our investigations team.

For schemes which cannot meet our expectations, we encourage consolidation where possible. This can help ensure a much higher standard of governance, coupled with economies of scale which can benefit pension savers in the long term.

3. How many conflicts of interest, similar to those in this case, have been raised with TPR since 2013? Do you plan to review what action needs to be taken in any such cases, given what has happened here?

The management of conflicts of interest by trustees is key to good scheme governance and TPR has published specific guidance in this regard. It is vital that trustees are aware of conflicts, whether actual or perceived, and put measures in place to manage them. We do not currently track data specifically on conflicts of interest and, as such, we are unable to set out with certainty the number of instances of conflicts of interests since 2013 that are at a similar level as the case at hand.

However, as I mentioned when we met on the 14 April, we are currently conducting an internal review which will consider our approach and response at the time, and, in the context of our clear, quick and tough approach, identify if there are further lessons to be learned. This will include thorough review and consideration of how we use data to identify any trends or patterns with respect to conflicts of interest. The recommendations from the

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review will be used to support both continuous improvement and the development of our technological capabilities under our Information Technology and Data transformation programme. We will consider how we process and develop information around whistleblowing reports, alongside other intelligence sources to identify trends and risks which pose a threat to savers.

4. **Do you now expect to conduct a wider review of the arrangements of smaller schemes with similar characteristics to the Norton pension schemes? If not, what assurance can you give to savers about the regulation of such schemes?**

Unfortunately, as a risk-based regulator we simply do not have the resources to review every small scheme which is similar to the three Norton pension schemes. To make the best use of public money we have to target our resources where we see the greatest risk. That is why it is so important that we continue to build on our joined-up approach with other agencies and particularly the work of Project Bloom, to improve our intelligence gathering across the board.

Looking more broadly, under our new clear, quick and tough approach, we have introduced high-volume regulatory interventions called ‘regulatory initiatives’, which involve us contacting particular segments of the pensions landscape to address particular risks or issues, in order to prevent problems from developing. Based on the responses we receive from the schemes we contact, they may become subject to higher intensity intervention. We intend to do more work in the future looking at governance issues around smaller pension schemes.

Generally speaking, and not in relation to this case, the most powerful tool in our armoury is education and our joint TPR/FCA ScamSmart campaign was relaunched last month and ran across TV, radio and social media.

We are aware of the potential extra risk of scams due to the pandemic and we hope to build on the success of last year’s campaign by providing pension savers with the knowledge and tools to avoid pension scams and getting the industry to do all they can to protect savers. Last year, more than 220,000 people visited the ScamSmart website over the course of the campaign.

I hope that this information is helpful to the Committee. We will be in touch if we have further updates for you.

Yours sincerely

[Signature]

Charles Counsell
Chief Executive

cc: The Pensions Ombudsman
Following the Pensions Ombudsman’s determination on the Norton pension schemes yesterday, and your reply of 6 April 2020, I would be grateful if you would answer the questions below:

1. In the light of the determination, does the Pensions Regulator now expect to undertake further work on the areas of this case which fall outside the Ombudsman’s remit?

2. What were the circumstances that permitted LD to administer the scheme? Is it possible that there are many other smaller schemes in similar arrangements?

3. How many conflicts of interest, similar to those in this case, have been raised with TPR since 2013? Do you plan to review what action needs to be taken in any such cases, given what has happened here?

4. Do you now expect to conduct a wider review of the arrangements of smaller schemes with similar characteristics to the Norton pension schemes? If not, what assurance can you give to savers about the regulation of such schemes?

I look forward to hearing from you.

Yours sincerely,

Rt Hon Stephen Timms MP
Chair
Dear Mr Timms

Norton Motorcycle Holdings Ltd

Thank you for your letter of 4 March regarding the administration of Norton Motorcycle Holdings Ltd and in particular the three pensions schemes you name in your letter - Dominator 2012, Commando 2012 and Donnington MC. I apologise for the delay in my response, which is largely in order to focus on the impact of Covid-19.

When did TPR become aware of Mr Garner’s conflict of interest in acting as a trustee for the schemes?

During 2013 we received a number of whistle-blowing reports from members of pension schemes, including Norton’s three schemes, regarding concerns about T12 Administration Ltd (T12). One such report, received in April 2013, also identified Mr Garner’s conflict of interest. We recommended that the whistle-blower pass on the information to Action Fraud, which was the standard practice at that time.

At that stage our immediate regulatory priority was to protect the assets of those pension schemes that we judged to be most at risk from T12 Administration. We appointed independent trustees, on an emergency basis, to a number of pension schemes between 2011 and 2014 with which T12 was linked. In making these appointments at the time, we targeted our limited resources where we judged that they could have the most impact in terms of safeguarding assets and protecting members’ interests. This did not include the three Norton schemes at that time. In addition, we worked alongside HMRC’s own investigation which led to the successful prosecution of two of T12’s directors, who were subsequently imprisoned.

Our regulatory model has transformed since 2013. If these circumstances presented themselves now, we would be more proactive in following up on the wider intelligence picture and potentially would have appointed an independent trustee earlier in relation to concerns about the Norton schemes.

The arrangement began in 2012. Could TPR have acted before May 2019, some seven years later?

We opened a case in March 2017 on the three Norton schemes following a whistle-blowing report concerning a potential breach of employer related investment (ERI) restrictions. However, an active police investigation was already under way. Mr Garner was a witness in the police investigation, not the subject of it. To prevent jeopardising the police case, TPR paused its inquiry until the police matter was concluded.
From February 2018, having re-initiated our inquiry, we engaged with Mr Garner, the sole trustee of the three pension schemes, with the aim of him voluntarily stepping down and being replaced by an independent trustee. Due to a lack of progress, TPR initiated steps in 2019 using its statutory powers to appoint an independent trustee with exclusive powers to the three schemes. The appointment was made in May 2019.

Has TPR learned any lessons from the handling of this particular case?

TPR is now a clearer, quicker and tougher regulator. My predecessor, Lesley Titcomb, initiated a wholesale review of our approach to regulation called TPR Future and, as a consequence of that work, TPR is now operating in a different way. We’re clearer in how we set our expectations of those we regulate; quicker to intervene to prevent problems from developing using the range of regulatory tools available to us; and tougher in the action we take where we discover breaches of law.

Under our new way of working, whistle-blowing reports, such as on employer related investments (ERI), are now fast-tracked to our investigations team. Under our current approach, if we were faced with similar circumstances again, we would potentially appoint an independent trustee earlier.

We strive to learn from every case, including this one. We are now much more bold and assertive in our casework, intervening more quickly and decisively and making greater use of the powers available to us. We have updated the committee in the past on this work and would be happy to brief you in more detail on our progress. In situations where we need to act quickly, we have a special procedure that enables us to appoint an independent trustee to protect schemes and assets promptly.

What is TPR doing to protect other savers in schemes set up through pension liberation scams?

Only in the last week we have issued a further joint warning with the FCA and Money and Pensions Service of the heightened risks to retirement savers from scams during the Covid-19 emergency¹. Education is our most powerful weapon in the fight against pension scams and that’s why in 2018 and 2019 our joint ScamSmart campaigns from the FCA and TPR urged savers to check who they are dealing with, particularly when contemplating a transfer of pension savings. The £4 million campaigns drove almost 400,000 users to the ScamSmart website raising the awareness of pension scams and the risks they pose to consumers.

TPR leads Project Bloom, the multi-agency taskforce set up to tackle pension related scams. Its members include crime-fighting agencies and regulatory bodies. We work in partnership and share intelligence enabling the most appropriate organisation to intervene.

We will continue to work with Project Bloom partners to run pension scams campaigns which encourage pension savers to check the warning signs of a pension scam via the FCA’s ScamSmart website and to report suspected pension scams to Action Fraud on 0300 123 2040 or at www.actionfraud.police.uk

We have taken action through the courts to dismantle the business models of scammers targeting occupational pension schemes and by using our own regulatory powers to appoint an independent trustee to secure assets and take control of the administration of scam schemes.

We are bolder in using prosecution powers to clamp down on pension fraud. In February, Patrick McLarry, the former chief executive of a disability charity, was jailed for five years for defrauding the charity’s pension scheme of £250,000. In 2019, we successfully prosecuted accountant Roger Bessent for fraud and making prohibited employer-related investments. Bessent, who fraudulently took more than £290,000 from a pension scheme, was jailed for more than three years. In relation to both prosecutions, we are applying for the confiscation of assets from the individuals concerned.

**What should the expectations be of scheme members for the return of the funds they invested?**

Generally speaking, once money falls into the hands of a scam scheme, it is difficult to recover. This is why we have placed so much emphasis on making the public aware of the dangers of pension scams. It is much better to stop savers handing over their money in the first place. In all cases, including this one, we would consider whether to prosecute the individuals.

While TPR and The Pensions Ombudsman (TPO) have different objectives and powers, please rest assured that, where it is appropriate to do so, we share information and intelligence with TPO and other partner agencies, in order to achieve the best possible outcomes for pension savers in very challenging circumstances, such as this. I know that you are also aware that TPO has conducted an oral hearing on Norton Motorcycles.

I hope this information is helpful to you and the Committee.

Yours sincerely

Charles Counsell
Chief Executive
Dear Charles,

Following the recent administration of Norton Motorcycles Holdings Ltd, there has been increased interest in the three pension schemes set up, as part of a pensions liberation scam, to provide funding for the company. The previous trustee, Mr Garner, of the Dominator 2012, Commando 2012, and Donington MC pension schemes was also CEO of Norton Motorcycles Holdings Ltd, and was replaced by an independent trustee in May 2019.

I would be grateful if you would answer the questions below:

1. When did the Pensions Regulator become aware of Mr Garner’s conflict of interest in acting as a trustee for the schemes?

2. The arrangement began in 2012. Could the Pensions Regulator have acted before May 2019, some seven years later?

3. Has the Pensions Regulator learned any lessons from the handling of this particular case?

4. What is the Pensions Regulator doing to protect other savers in schemes set up through pension liberation scams?

5. What should the expectations be of scheme members for the return of the funds they invested?

I look forward to hearing from you.

Yours sincerely,

Rt Hon Stephen Timms MP
Chair