



The
Pensions
Regulator

Making workplace pensions work

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The Rt Hon Sir Stephen Timms
Chair
Work and Pensions
Committee
House of Commons
London
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14 June 2022

Dear Sir Stephen,

NORTON PENSION SCHEMES

Thank you for your recent letter regarding the Norton pension schemes.

In response to the specific questions contained in your letter, I hope the following responses are helpful.

1. Has TPR reviewed, or made plans to review, its interactions with the Norton schemes?

For all our enforcement cases, we conduct regular reviews to identify any lessons we can learn for the future.

In the Norton case, we have recently concluded our final review process in respect of the criminal investigation.

We continue to 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.

2. In your previous letter you assured the Committee that, in cases where pension savers' money has not been safeguarded by trustees, TPR always carefully considers if it can and should take forward regulatory action. Please could you outline the factors taken into consideration and if these have changed over the last 18 months?

The Committee is aware that Stuart Garner was given an eight-month suspended prison sentence at the end of March 2022 for employer related investment (ERI) offences.

The conclusion of these criminal proceedings removes the risk that separate regulatory action by TPR could prejudice any ongoing criminal investigation or prosecution. The main change is that we can now consider going ahead with regulatory proceedings. (It is not best practice to undertake both at the same time).

We would also point out that as part of the Crown Court's sentence, Garner was disqualified from acting as a company director for three years. The effect of this disqualification is to also prohibit him from being a trustee of any occupational pension scheme for the same period.

In a case such as this, the factors considered by our joint assessment process when examining the use of our powers will include the severity of the breach or impact, the extent to which the result would meet the outcomes we are seeking to deliver through our corporate strategy and the resources available to us.

More generally, as you point out, new powers in the Pension Schemes Act 2021 strengthened TPR's regulatory framework to enable us to gather evidence more efficiently and respond to events or conduct that could affect schemes, including through new sanctions. The Committee will be interested to learn that on 4 May we launched a consultation¹ on our new draft consolidated enforcement policy and a revised and updated prosecution policy.

3. What work has TPR undertaken since August 2020 to review the risks posed by small schemes?

We know from our own research, such as our annual DC surveys, that most small and micro schemes are unlikely to meet the governance standards that we expect and are often unaware of their legislative duties or do not fully adhere to our codes of practice.

We communicate with schemes about their duties in a number of ways and consult on significant new policies and initiatives. The enforcement action we take, such as against Stuart Garner, acts as a powerful deterrent against the worst type of trustee behaviour.

However, many small schemes simply do not engage and so we believe that well-managed consolidation is the right option for them. Winding up and moving members to a master trust for example would improve the security and value that their members receive.

We therefore welcome the government's requirement for schemes with assets under £100 million to consolidate if they are unable to provide good value for their members. We plan to proactively engage with schemes, which could include regulatory action for non-compliance where schemes do not meet our expectations.

4. The scheme's trustee Dalriada, has published guidance on possible routes of compensation for members and issued warnings about the risk posed by secondary scammers. Does TPR support trustees in developing this guidance and what support is available to members seeking alternative routes of compensation?

Trustees should know the particular circumstances of their scheme and will have access to advice to ensure that they produce accurate and meaningful guidance for their members. We do not approve guidance issued by trustees, but we are available to support trustees if they require

¹ [Enforcement and prosecution policies consultation | The Pensions Regulator](#)

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it. Trustees should support their members by ensuring they are made aware of available routes of compensation (which will vary depending on schemes' circumstances).

We expect trustees to communicate with members who have suffered a loss and to keep them appropriately informed about any possible routes of recovery. In addition, if trustees are aware of additional specific risks to members, we would expect them to alert members and consider reporting these risks to us.

In pensions schemes where we have an open case, we would wish to understand the significant issues so that we would have an opportunity to raise any concerns, should we have any. In the case of the Norton pension schemes, we have been in regular contact with Dalriada since we appointed them as the independent trustee.

In relation to secondary scams, we will shortly be publishing an updated pension scams threat assessment. It will show that the issue of secondary scams, also called recovery fraud, is a very real threat and can have a particular impact on pension scam victims. While we've found there are low cases of recovery fraud, the picture is complicated by claims management companies which in some cases charge high fees.

As part of our communications strategy around our threat assessment and scams strategy, we will include warnings on the risk of secondary scams where appropriate.

We are also providing victims of scams with support through a new arrangement with the City of London Police, which is handling ongoing direct communications with members.

5. What is the process for determining whether the schemes are eligible for the Fraud Compensation Scheme?

This is a question that the Fraud Compensation Fund (FCF) is best placed to respond to.

However, in broad terms, we understand from the PPF (which administers the FCF) that the first step is for an application to be submitted to the FCF. Any trustee, scheme manager, member or beneficiary can apply for compensation from the FCF – however, typically applications are submitted by the trustee(s).

Once an application has been made, the FCF will consider whether the initial eligibility requirements, as set out in law, have been met. If the eligibility requirements are met, the FCF will assess in detail the supporting evidence contained in the application and may need to obtain further evidence from third parties. Once this process is complete, it will reach a conclusion as to whether scheme assets have been reduced, and whether there are reasonable grounds for believing that the reduction was attributable to an offence involving dishonesty. Where the FCF concludes a scheme is eligible for the FCF, compensation will be paid to the trustees to then disburse among affected members.

Further details on the FCF's [application process](#) and its [assessment process](#) be found on its website via these hyperlinks.

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With specific regard to the Norton schemes, it is our understanding that the trustees have not yet submitted a claim (i.e. an application) to the FCF (nor has an insolvency notice yet been received). This is because the FCF is a fund of last resort so any potential recoveries from the liquidation and bankruptcy need to be realised first.

I hope the above information is helpful to you. We expect to publish a full report at the end of the course of our enforcement action into Norton which we will be happy to share with you and the Committee.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Charles Counsell', written in a cursive style.

Charles Counsell
Chief Executive

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Charles Counsell
Chief Executive
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25 April 2022

Dear Charles,

There have been significant developments since I last wrote to you on the Norton pension schemes in August 2020: Parliament has passed the [Pension Schemes Act 2021](#) giving the Pensions Regulator more powers to protect scheme members; the Committee has published its report on [pension scams](#), there was a significant [High Court judgement](#) on the Fraud Compensation Fund and the [Compensation \(London Capital & Finance and Fraud Compensation Fund\) Act 2021](#) has enabled the Secretary of State to make a loan to the Board of the Pension Protection Fund to enable the payment of compensation to eligible occupational pension schemes following that judgment.

I did not write to you last year because of outstanding legal proceedings. However, Derby Crown Court having passed sentence on Mr Garner on 31 March, this seemed an appropriate point to write to you again with some questions about progress in securing funds to compensate scheme members. I have noted the [announcement](#) you made following the sentence, providing an update on other actions.

Unfortunately, the process has been frustratingly slow for members of the schemes. I am aware that there have been complaints about the communications from the trustee, Dalriada, which has so far incurred costs of £496,800. If the funds are recovered these costs may well be worthwhile; we found in our report on pension scams that there is an inevitable trade-off between lower fees and better communication. But members of the schemes face a long wait to find out when and how much of their savings will be returned.

I would be grateful for answers to the following questions:

1. Has TPR reviewed, or made plans to review, its interactions with the Norton schemes?
2. In your previous letter you assured the Committee that, in cases where pension savers' money has not been properly safeguarded by trustees, TPR always carefully considers if it can and should take forward any regulatory action. Please could you outline the factors taken into consideration and if these have changed over the last 18 months?
3. What work has TPR undertaken since August 2020 to review the risks posed by small schemes?

4. The schemes' trustee, Dalriada, has published guidance on possible routes of compensation for members and issued warnings about the risks posed by secondary scammers. Does TPR support trustees in developing this guidance and what support is available to members seeking alternative routes of compensation?
5. What is the process for determining whether the schemes are eligible for the Fraud Compensation Fund?

I look forward to hearing from you.

With best wishes,

A handwritten signature in black ink, appearing to read "Stephen Timms". The signature is written in a cursive style with a horizontal line above the name.

Rt Hon Stephen Timms MP

Chair, Work and Pensions Committee