Sir Stephen Timms MP
Chair of the Work and Pensions Committee
House of Commons
London
SW1A 0AA

3 April 2024

Sent by email only to: workpencom@parliament.uk

Dear Sir Stephen,

Thank you for the opportunity to provide oral evidence as part of the Committee's inquiry into the Norton pension schemes and the Fraud Compensation Fund (FCF). This is an important inquiry and I welcomed the opportunity to discuss with the Committee the role that the Pensions Ombudsman and our team played in achieving justice for 254 scheme members. I am writing to follow-up on a few of the points raised in the session.

Firstly, I said I would provide some information on the number of scam-related cases we have dealt with. Clearly, there are different types of 'scam' (and we don't use a specific definition), but we currently have 425 scam related cases in our case load, with an additional 164 scam cases being closed since March 2021. Notably, this includes the work of the Pensions Dishonesty Unit (PDU) and, more broadly, complaints relating to whether a pension scheme should have agreed a transfer into a scam scheme, or whether the pension scheme should have accepted an investment which has since been identified as a scam.

Unfortunately, prior to 2021, we didn't record this information in the same way and we cannot provide a longer-term picture. However, I can say that, anecdotally, the cases that we currently hold relate to actions taken in the period 2010-2018, and the number of new scam-related cases being referred to us has now started to reduce. That said, we are still receiving new referrals and it often takes time for a victim of pension fraud to realise they have been scammed, so we do expect to be dealing with this type of case for years to come. For the reasons I gave in my oral evidence, I am also of the opinion that the amount of money in pensions generally will continue to attract wrongdoers in the future.

Secondly, in my oral evidence I talked about how we have made pragmatic decisions about which cases the PDU should focus its limited resources on. Our considerations include:

- the likelihood of us being able to recover any money for scheme members,
- the potential for a determination to act as a deterrent to other wrongdoers, and
- whether there is an opportunity to shine a spotlight on a different or new type of scam, or a new way that we can deal with an issue affecting members.

In relation to the latter, I gave the example of an individual looking to protect their personal assets by shielding themselves behind the 'corporate veil' (with that company acting as the trustee, rather than the individual).

The recent case relating to the Focus Administration Pension Scheme involved a corporate trustee, and shows how we can take advantage of our unique powers to carry out an inquisitorial investigation, which is flexible enough to adapt and evolve as the evidence develops, while providing a legally binding Determination. In this case to hold an individual responsible as an accessory to breaches of trust by a corporate trustee and achieve redress for wronged scheme members.

After extensive investigation of this sophisticated pension liberation scheme, the Deputy Pensions Ombudsman upheld the member complaints and used trust law principles to make a finding that the original trustee, FIDE Chess Grandmaster Simon Williams, and Focus had committed multiple breaches of trust. He directed Mr Williams to repay £738,768.60 into the Scheme in relation to his actions both as a sole (individual) trustee but also as a dishonest accessory to the breaches by Focus. Mr Williams and Brambles (the administrator) were also directed to pay each complainant £6,000 in recognition of the distress and inconvenience they suffered.

I understand that Mr Williams has now settled with the Independent Trustee, agreeing to pay £160,000 following the Determination. As you may be aware, an agreement to an amount below that directed by TPO is a decision for the Independent Trustee, involving an assessment of the individual's realisable assets, prospects of further recovery and the best interests of the scheme' members. A claim to the FCF is expected regarding the remaining loss.

In terms of other scam-related cases of a comparable scale to Norton, Anthony referred to the pension liberation case involving Optimum Retirement Benefit Plan, which is currently subject to appeal. The case was upheld in December 2022 with Anthony directing the repayment of more than £12.5 million into the scheme. I can also confirm that we have a further six scam-related investigations currently underway, which each involve millions of pounds of investment and/or affect hundreds of members, along with several smaller schemes.

Clearly, our work protecting members from scams, holding wrongdoers to account and seeking redress for members is of considerable importance, and the unique powers we have as an ombudsman make us well placed to help achieve justice for victims in this regard. I look forward to carrying on this work for as long as our funding allows.

Thirdly, I wanted to raise one point of clarification. During the oral evidence session on 20 March, Anthony suggested that the FCF was formed in 2020. The FCF was, of course, formed in 2005 and Anthony was in fact referring to the November 2020 High Court case which confirmed that pension liberation or scam schemes could be eligible to make a claim on the FCF.

I hope this information is helpful. Anthony and I would like to thank you once again for providing us with an opportunity to discuss with the Committee the important role we play in achieving justice for wronged pension scheme members, both in the Norton case and in our wider work.

Yours sincerely,

Dominic Harris
Pensions Ombudsman and Pension Protection Fund Ombudsman