

Submission by Occupational Pensioners Alliance (OPA) Council to Select Committee

September 2016

Inadequacy of Regulatory Powers and weakness in pro-active regulation

- 1.1) ***A greater emphasis on supervision and pro-active regulation.*** In light of the recent history of failed pension schemes, there is a need for an improved monitoring and supervisory role of TPR, together with pro-active regulation to take account of the ever changing commercial and economic situation. Pensions' regulation regimes can only work if they have powers and resources to act whilst there are adequate assets within the pension funds and sponsoring companies. Current situations like those of BHS, Halcrow etc are beyond the range of UK legislation. If there are few assets or minimal funds within the UK there appear to be minimal powers that the Regulator can call upon to remedy an unsatisfactory situation.
- 1.2) ***The adequacy and application of regulatory powers.*** In light of past events, of which BHS is just the latest, the adequacy of the powers of TPR (The Pensions' Regulator) are not considered to be sufficient, nor are those powers which already exist being applied with sufficient rigor. There is a need for pension scheme funding to be moved up the insolvency hierarchy, certainly above shareholders and even unsecured loans and creditors.
- 1.3) ***The level and prioritization of resources.*** TPR requires sufficient resources to enable it to ensure relevant regulations are implemented; otherwise it fails its role. The indications are that TPR has fewer resources than required to handle regulatory issues which are often very complex.
- 1.4) ***Additional measures for private companies and companies with complex and multinational group structures.*** There is a need for additional measures to ensure that pension schemes are adequately financed and protected. The concept of a covenant between such companies and members of UK based pension funds is difficult. In the former case TPR does not have access to as much financial information concerning the operations of the company as is the case with public companies. In the latter case TPR can only influence the behaviour of the UK subsidiary and should only take account of the resources controlled by the UK subsidiary when assessing the strength of the covenant. The revised Code of Practice introduced in 2015 is still untested and suggests that it may already be out of date.
- 1.5) ***The pre-clearance system.*** Pre-clearance should be mandatory, rather than voluntary. However it is accepted that there may need to be different levels of clearance procedures, depending on the financial state of the pension scheme.
- 1.6) ***Powers relating to scheme recovery plans.*** With recovery plans now extending over long periods of time there is a need for the TPR to carry out regular monitoring and

review. "Twenty two years" as quoted recently in the BHS Case is totally unacceptable and should not have been allowed. The six and eleven years are normally used and reasonable and commercially viable.

- 1.7) ***The impact of TPR on commercial decisions and operation.*** Maintaining the balance between long term viability of the employer and the interests of its pensioners is a difficult issue. Where there is a significant deficit in the resources of the pension fund, any agreement to use available resources for the company's operating needs should include a caveat that an agreed proportion of the improved profit should be used to reduce the pension fund deficit.
- 2) ***The Sustainability of the PPF(Pensions Protection Fund) and fairness of the levy system.*** Our limited understanding is that the PPF is adequately funded up to 2030 on current forecasts and that the levy system is working satisfactorily at the moment. However if company defaults rise to a higher level and takeovers/mergers ditch the Pension Fund liabilities of the previous owner then the financial situation will change radically. There does not appear to be an alternative "lifeboat" to rescue unsustainable schemes with large unfunded deficits.
- 3) ***Role and powers of pension fund trustees.*** There is concern that trustee boards are still skewed towards sponsoring employers' interests. Our opinion is there should be statutory requirements for a minimum of fifty percent of the scheme trustees to be active or pensioner members. There should be a greater use of professional independent trustees, particularly as chairpersons.
- 4) ***Relationship between TPR, PPF, trustees and employers.*** There needs to be a close working relationship between TPR and PPF so that they can carry out their respective roles effectively and issues do not fall through any gap between them. Trustees, as well as employers, need to be kept aware of any issues affecting their fund which are of concern to the TPR / PPF and to see all correspondence passed between their scheme and the two organisations.
- 5) ***Balance between Pension Obligations and ongoing viability of Sponsoring Employers.***
 - 5.1) ***Minimise any adverse effects on sustainable growth of employing organisations.*** There may be situations where there is a need to balance an adequate cash flow to a Pension Fund with financing funding a private company in a sustainable manner. The Pension Fund is vital to its members, so before any reductions in company contributions are considered, the overall finances of the company or group of companies (including its dividend policy) need to be reviewed in order to confirm this action is proportionate.

5.2) *Impact on inter-generational fairness.* Paying a contracted pension is not an inter-generational fairness issue. The vast majority of DB (Defined Benefit) scheme pensioners receive relatively small payments and although pensioners may appear to have a high capital worth, this is almost entirely through the high value of the dwelling in which they live. The present very low interest rates adversely affect pensioners by reducing their interest income, but benefits younger people through lower mortgage and interest rates. Any reduction of pensions will increase the social and financial dependence of pensioners through demands on the social security and benefits systems.

5.3) *Whether the current situation warrants an exceptional approach.* The present financial situation was brought about by the financial and banking collapse in 2008/09, lack of financial and Banking Controls and unfettered greed of the banking sector, not through the existence of DB schemes. Additionally, past governments have seen pension funds as a tax source rather than an investment in the secure future of its population. Also, companies which have large pension deficits are frequently electing to pay high levels of dividends, rather than reducing their pension debt. Pension deficits are sometimes seen as a source of cheap credit.

Of particular concern is any move for a centrally enforced/enabled change of inflation indexation from RPI to CPI for all pension schemes. It should be remembered that much of the cost of living increases for pensioners arises from organisations which use RPI as an index for increasing their charges e.g. transport. The proposed Household Inflation Index now being discussed with the Chief Statistician, Office of National Statistics, Royal Statistical Society and the RPI/CPI Industry Working Party needs to be implemented at an early date before the inflationary environment escalates and becomes out of control.

This submission is a result of consultations within the OPA Council which comprises 26 individual Occupational Pensioners' Associations representing up to one million Occupational Pensioners. OPA was established in 2003/2004 as a result of a merger of COPAS and other major Occupational Pensioner Associations. Since that date the three largest Pensioner Associations did transfer to NFOP (National Federation of Occupational Pensioners) which also consults at National and Government levels on Occupational Pension issues.

Peter W Austin, Chairman of OPA

John Scholey, Treasurer of OPA representing Unilever Pensioners

William Pitt, Advisor representing ITB Pensioners

OPA Council Members, who have contributed to this submission