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Work and Pensions Committee

Defined benefit pension schemes

Sixth Report of Session 2016–17

Report, together with formal minutes relating to the report

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Work and Pensions Committee

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Summary

Our inquiry on the collapse of BHS provided the backdrop to our broader work on defined benefit (DB) pension schemes. BHS was an extraordinary tale characterised by behaviour fortunately very far removed from the usual standards of British business. The case, and other high-profile schemes in difficulty, did however highlight wider flaws in DB schemes and their regulation. The Government intends to publish a Green Paper on the issue in early 2017. In this report we make recommendations for changes which should be taken forward or consulted on in that document.

Our approach

In our recommendations we have sought to avoid knee-jerk recourse to additional box-ticking regulation. Instead we have aimed to put incentive structures in place to make it more likely that DB pension schemes will be sustainable and that employers will honour their responsibilities. In turn, this will make it less likely that the Pension Protection Fund (PPF), the pension scheme lifeboat, will be called upon. Responsible employers, which are the overwhelming majority, have nothing to fear from what we propose.

A nuclear deterrent to avoidance

Our most high-profile recommendation epitomises this approach. The existing anti-avoidance powers of the Pensions Regulator (TPR), which act as its final backstop to ensure scheme sponsors honour their promises, are retrospective and often exercised through drawn-out legal battles. An employer seeking to avoid his or her responsibilities may well take a punt on risking enforcement action, leaving pensioners in extended limbo. We wish to deter such behaviour and encourage sponsors to properly fund schemes and seek clearance for corporate transactions which may be to their detriment. We recommend the Government consult on proposals to empower TPR to impose punitive fines that could treble the amount payable. The intention would be that such fines would not need to be imposed: they would act as a nuclear deterrent to avoidance.

Empowered trustees and scheme members

We want to arm trustees with the powers necessary to represent the interests of scheme members. It is unacceptable that scheme sponsors can keep them in the dark: trustees should be able to demand timely information. We also recommend the Government consult on proposals to enable trustees, subject to TPR approval, to:

- consolidate small schemes in an aggregator fund to be managed by the PPF, creating economies of scale for both schemes and TPR; and
- agree changes to the indexation of pension benefits in instances where such changes are needed to make a scheme sustainable, including conditional arrangements that will revert to original uprating when good times return.

Scheme members should be given greater flexibility to take their pensions as lump sums. This could prove to be in the interests of both the individual and the longer-term viability of the pension scheme.

A nimbler regulator

Regulatory intervention is currently often clunky and can be concentrated at stages when a scheme is in severe stress or has already collapsed. We envisage a nimbler TPR intervening earlier to nip potential problems in the bud; a rebalancing, rather than ramping-up, of regulatory action. This approach should be evident in the scheme valuation process. TPR should never again take two years to intervene in a negotiation concluding with a 23 year deficit recovery plan:

- the timetable for valuations should be flexible—shorter or longer—to reflect the riskiness of schemes;
- the statutory timescale for the submission of valuations and recovery plans should be reduced to nine months, though TPR should intervene sooner where it has concerns; and
- recovery plans of more than ten years should be exceptional.

A PPF levy that fairly reflects risk

The risk-based PPF levy is up for review. It is important that where possible it is improved regularly to reflect risk accurately. We call on the PPF to consult on means of adjusting the calculation of the levy to:

- incentivise key aspects of good scheme governance; and
- ensure particular types of employer, including SMEs and mutual societies, are not unfairly disadvantaged.

Facilitating scheme restructuring in mutual interest

The Regulated Apportionment Arrangement (RAA) is a means of negotiating an outcome for scheme members that is better than the PPF in instances where a sponsoring employer is in mortal danger. When agreed, it can produce results that are better for pensioners, better for employers and better for the PPF than insolvency. It is, however, very rarely used. It is an emergency measure, but it does not operate at an emergency pace. TPR should take a more active approach to its involvement in their negotiation. The Government should consult on streamlining the RAA process and amending the barrier of imminent and inevitable insolvency.

Mandatory clearance in certain circumstances

The voluntary practice of seeking TPR clearance for major corporate transactions has fallen out of fashion: there were just 9 cases in 2015–16 compared with 263 in 2005–06. We are wary of impeding the normal economic activity of mergers and acquisitions, but there is a strong case for clearance to be mandatory in certain circumstances when there is the greatest risk of material detriment to pension schemes. We recommend the Government consult on rules regarding the size of the pension deficit relative to the value of the company and the viability of the ongoing plan for supporting the pension scheme as the basis for a mandatory clearance when corporate changes could damage a pension scheme.

Avoiding another BHS

It is inconceivable that Sir Philip Green's deal to dispose of BHS and its giant pension deficit—for £1 to an unqualified man with no plan for the pension schemes and no means of financing one—would have evaded or passed any mandatory clearance scheme. Throughout our inquiry we tested whether potential recommendations would reduce the chances of another pension scheme collapsing in the manner of BHS. Under our proposals:

- the BHS trustees would have been empowered to demand timely information from the uncooperative sponsor and may have been able, through a streamlined restructuring process or adjustments to indexation, to make the scheme more sustainable while securing better than PPF outcomes for members;

- many scheme members may have taken their pensions as lump sums under more flexible rules, to their benefit and to that of the schemes;

- TPR would have intervened more actively in the 2009 and 2012 valuations, requiring concessions from Sir Philip, abridging the valuation schedule and never allowing a 23 year deficit recovery plan to be considered as a serious proposal; and

- Sir Philip would have faced far stronger incentives to "sort" the pension scheme during his ownership owing to the nuclear deterrent of a potential punitive anti-avoidance fine that could treble the amount TPR could recover from him.

It will, of course, be of no comfort to the 20,000 BHS pensioners facing cuts to their promised pensions, but had just some of these measures been in place then they may never have ended up in that situation.

Key Facts

DB pension schemes			
Number of schemes	5,794		(a, f)
of which:			
schemes in surplus	1,522	*(26%)*	(b, g)
schemes in deficit	4,272	*(74%)*	(b, g)
Assets under management	£1.4trn		(g)
Liabilities (s179 basis)	£1.6trn		(b, g)
Liabilities (buy-out basis)	£2.1trn		(c, f)
Deficit (s179 basis)	£195bn		(b, g)
Deficit (buy-out basis)	£780bn		(c, f)
Members of PPF-eligible DB schemes	11.0m		(d, f)
of which:			
Pensioner members	4.4m	*(40%)*	(d, f)
Deferred members	5.2m	*(47%)*	(d, f)
Active members	1.4m	*(13%)*	(d, f)
Pension Protection Fund (PPF)			
Members transferred to PPF	230,664		(h)
Members receiving PPF compensation	124,705		(h)
Total PPF compensation paid to date	£2.7bn		(h)
Schemes transferred into PPF	868		(e, h)
Schemes currently in PPF assessment	125		(e, h)
Schemes assessed & not transferred in	209		(e, h)

(a) PPF-eligible schemes for which data is available. Total schemes estimated at 5,886 in Mar 2015

(b) On a section 179 (s179) basis - liabilities valued at PPF-compensation levels

(c) Liabilities valued at full benefit levels plus buy-out premium payable to insurer

(d) Figures relate to memberships - an individual may have membership of more than one scheme.

(e) Schemes and scheme parts

(f) PPF Purple Book 2016 - figures for March 2016

(g) PPF 7800 index, Dec 2016 update - figures for November 2016

(h) PPF website, figures as at mid-Dec 2016

1 Context

BHS

1. In July 2016 we published a report with the Business, Innovation and Skills Committee on the actions and conduct of those who owned and operated BHS.[1] One issue that we examined in detail was the growth of the deficit in BHS's defined benefit (DB) pension schemes, and the repeated failure of Sir Philip Green and his directors to resolve it. As a result of BHS's demise, its 20,000 current and future pensioners face substantial cuts to their pension entitlements. Should the schemes transfer to the Pension Protection Fund (PPF), those reduced pensions will partly be paid by levies on other pension schemes, including many attached to small companies.

2. Sir Philip Green's ownership of BHS epitomised the characteristics of a bad pension scheme sponsor. When he bought BHS, the pension schemes for which he became responsible were in surplus. As these schemes declined into substantial and unsustainable deficit, he and his directors repeatedly resisted requests from trustees for higher contributions. The 23 year deficit recovery period which Sir Philip Green presented to the trustees as a non-negotiable offer was extraordinary. The annual payments were wholly inadequate and the deficit continued to grow. After various failed attempts to restructure BHS and its pension schemes, Sir Philip finally sold BHS to Dominic Chappell and Retail Acquisitions Limited for £1. In doing so, he offloaded the company—and responsibility for the pension schemes—to manifestly unsuitable people. Despite assuring us that he would "sort" the pension schemes,[2] something well within his powers, he has so far failed to do so. In November 2016 the Pensions Regulator (TPR) launched enforcement proceedings against Sir Philip, Dominic Chappell and their companies under its anti-avoidance powers.[3]

3. During our BHS inquiry we found TPR to be reactive and slow-moving. Its first response to the 23 year recovery plan came four months after it was submitted and six months after it was due. TPR could, at times, have shown more urgency in engaging with BHS and the pension scheme trustees regarding the various attempts to restructure the schemes to make them more sustainable. We also found that both TPR and the trustees had almost entirely been kept in the dark about the sale of the company and its consequences for the pensioners.

4. BHS was in many ways an extraordinary case. In the course of our work, however, we developed considerable concerns about the wider DB sector and its regulation. At the same time, other high-profile cases including British Steel, Halcrow and Bernard Matthews came to our attention. We decided to conduct this broader inquiry. Our objective was to make recommendations for changes which would reduce the chances of cases such as BHS occurring again.

1 Work and Pensions and Business, Innovation and Skills Committees, First Report of the Work and Pensions Committee and Fourth Report of the Business, Innovation and Skills Committee of Session 2016–17, BHS, HC 54
2 Q1911 [Sir Philip Green]
3 The Pensions Regulator, BHS: TPR launches enforcement action, PN16–51, 2 November 2016

DB schemes

The sector and its regulation

5. DB pension schemes provide members with a specified regular pension, and sometimes a lump sum, on retirement. These benefits are calculated using a formula based on the member's earnings history and length of service, rather than depending directly on investment returns. Such schemes are also referred to as final-salary or salary-related pension schemes. When they operate as intended, they provide members with security and certainty about their retirement income. There are around 11 million private sector DB pension memberships in the UK.[4]

6. The regulatory framework for DB schemes was established by the Pensions Act 2004, which created both the Pensions Regulator (TPR) and the Pension Protection Fund (PPF). The PPF provides a safety net for members of DB schemes in the event the sponsoring employer becomes insolvent. The pensions paid to members whose schemes have fallen into the PPF are lower than they would have been if the employer remained solvent. In broad terms, members who had not reached normal retirement age in the scheme at the point it entered PPF assessment face a 10 per cent cut to their benefits. There is also a cap to the annual compensation such members can receive.[5] Annual indexation for all members in the PPF is typically less generous than in occupational schemes. These losses are, however, less severe than those some members would have faced before the inception of the PPF in 2005. The PPF is financed through a combination of investment returns and a risk-based levy on DB pension schemes.

7. DB pensions are gradually disappearing from the private sector. There are under 6,000 private sector DB occupational schemes in operation in the UK, compared with 7,800 in 2005. Very few new schemes are being created and existing schemes are increasingly closed to new members or closed to future accrual: just 13 per cent of schemes are open to new members. There are a large number of very small schemes: more than 2,000, 36 per cent of the total, have fewer than 100 members. The 212 schemes with more than 10,000 members, however, account for more than 60 per cent of memberships, assets and liabilities.

Figure 1: Schemes, memberships, assets and liabilities by scheme size

		Members					
		1 to 99	100 to 999	1,000 to 4,999	5,000 to 9,999	Over 10,000	Total
Schemes	Number	2,056	2,563	783	184	208	5,794
		35%	44%	14%	3%	4%	100%
Memberships	Millions	0.09	0.90	1.77	1.26	6.84	10.86
		1%	8%	16%	12%	63%	100%

Source: PPF, The Purple Book, December 2016

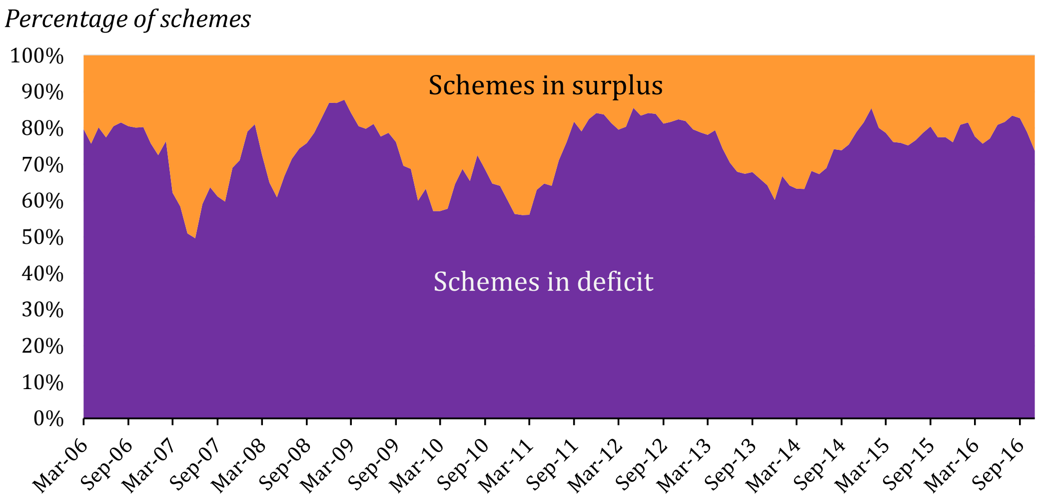
4 PPF, The Purple Book, December 2016. One individual can be a member of more than one scheme. The number of memberships therefore exceeds the number of people with a DB pension.
5 For further details see http://www.pensionprotectionfund.org.uk/Pages/Compensation.aspx.

Scheme deficits

8. A pension scheme is in deficit if its liabilities exceed its assets. There are a number of ways of calculating both. By the standard measure used by the PPF, 4,272 out of 5,794 schemes, or 74 per cent, were in deficit in November 2016.[6] The aggregate deficit of those schemes was £195 billion.[7] As shown in Figure 3, the aggregate funding position of DB schemes is volatile and has worsened considerably in recent years. This is attributable to a wide range of factors:

- poor investment returns, associated with low underlying interest rates and loose monetary policy following the 2008–09 financial crisis and associated recession;[8]
- rises in longevity that have been faster than was widely anticipated;
- sponsor behaviour, including many employers taking contribution holidays when schemes were in surplus.

Figure 2: DB pension schemes by funding position



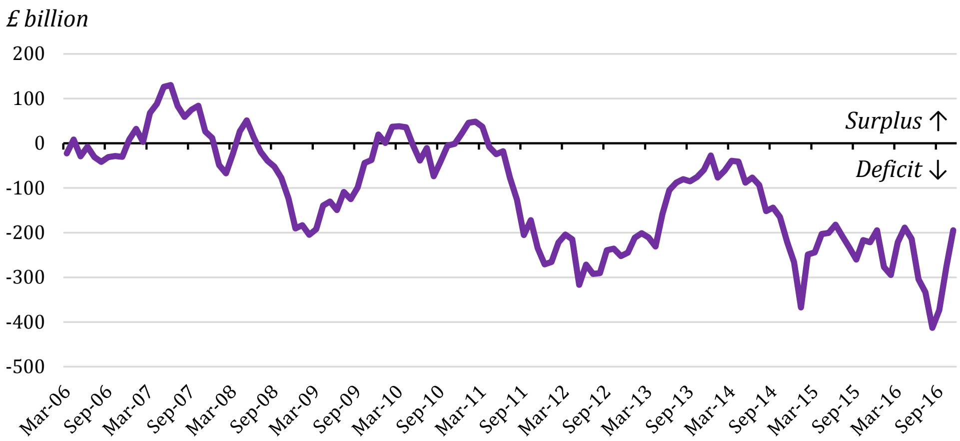
Source: PPF 7800 Index December 2016 update. PPF-eligible schemes valued on s179 basis

6 PPF 7800 Index December 2016 update. The PPF measures the funding position of schemes using the basis set out in s179 of the Pensions Act 2004. A scheme's s179 liabilities represent, broadly speaking, the premium that would have to be paid to an insurance company to take on the payment of levels of compensation that would be provided by the PPF. This valuation shows the extent to which the scheme would have to call on the PPF, or not, in the event of insolvency.

7 PPF 7800 Index December 2016 update.

8 Qq3219, 3244 [Dr Ben Broadbent]. The Bank of England's own research has suggests that quantitative easing tends to increase the deficits of schemes in deficit.

Figure 3: Aggregate funding position of PPF-eligible DB pension schemes



Source: PPF 7800 Index December 2016 update. PPF-eligible schemes valued on s179 basis

Forthcoming Green Paper

9. The Government plans to publish a wide-ranging Green Paper on DB pensions in early 2017.[9] Richard Harrington, Parliamentary Under-Secretary of State for Pensions (the Minister), told us that this would not merely diagnose the problems—which are well known—but propose real solutions on which the Government would take action.[10] In this report we recommend measures the Government should include in its Green Paper.

9 Qq3474–3479, 3499–3501 [Richard Harrington MP]

10 Q3474 [Richard Harrington MP]. The Pensions and Lifetime Savings Association published an in-depth analysis of the problems facing DB pensions in its October 2016 DB Taskforce Interim Report.

2 Promoting well-run schemes

The trustee-sponsor relationship

10. The best way to ensure a DB scheme can pay pensions in full is for it to have a strong sponsoring employer who can continue to make the contributions necessary.[11] Despite high-profile failures such as BHS, adequate support for DB schemes from good sponsoring employers is the norm. Andrew Bradshaw, from the Association of Professional Pension Trustees, told us:

> The majority of schemes we are pretty confident will be there for the longer term. They are being run well and the employer covenant is strong.[12]

11. DB pension schemes were set up under trust law. Trustees, acting separately from the employer, hold assets in trust for the beneficiaries of the scheme.[13] Trustees are responsible for ensuring that the pension scheme is run properly and that members' benefits are secure. But, uniquely in trust law, the settlor (the employer) remains involved in the scheme.[14] A good relationship, whereby trustees and employers engage constructively to balance the competing demands of members' and employers' interests, is essential for a well-run scheme. When this happens there is little need for TPR to become involved.[15] But when that cooperation is not forthcoming, trustees need a well-functioning regulator supporting them.[16] Lesley Titcomb, Chief Executive of TPR, was positive about how most employers behave:

> in the vast majority of circumstances we have a very, very positive relationship with trustees and employers, and most sponsoring employers behave entirely responsibly and […] co-operate with us.[17]

TPR expects most schemes will be able to pay benefits in full as they fall due.[18]

Communication

12. The key to a good relationship is open and frank communication, including the full and timely supply of information. The dire potential consequences for scheme members when information is not exchanged was evident in the BHS case, and several witnesses told us it was a wider problem.[19] Baroness Drake, a trustees and DB pensions expert, told us that many trustees were reliant on the disposition of the employer because they lacked the power to require sponsors to provide them with information.[20] Janice Turner, co-Chair of the Association of Member-Nominated Trustees, concurred that it would be helpful for

11 The Pensions Regulator (PPF0091); Government Actuary's Department (PPF0103). See also Q3445 [Lesley Titcomb]
12 Q3301 [Andrew Bradshaw]
13 Trustees may be individuals or companies.
14 Association of Pension Lawyers (PPF0071)
15 Q3358 [Neil Carberry]
16 Gowling WLG UK LLP (PPF0067)
17 Q3448 [Lesley Titcomb]
18 The Pensions Regulator (PPF0091)
19 Work and Pensions and Business, Innovation and Skills Committees, First Report of the Work and Pensions Committee and Fourth Report of the Business, Innovation and Skills Committee of Session 2016–17, BHS, HC 54; For example Qq3185 [Professor David Blake], 3304 [Alan Rubenstein]
20 Q3208 [Baroness Jeannie Drake]

trustees if there were formal requirements for the sharing of information.[21] SEI, which provides investment services for pension schemes, suggested this could involve regulation enforcing high-level information sharing at the highest level, including: ensuring trustees are aware of corporate developments that may affect the employer's ability to fund their scheme; and requiring corporate sponsors to include a pension scheme representative on the company board.[22]

13. **Communication is fundamental to the trustee-sponsor relationship which is at the heart of a well-run pension scheme. Uncooperative sponsors can keep trustees in the dark about information crucial to them carrying out their duties effectively.** ***We recommend the Government consult in its forthcoming Green Paper on proposals to give trustees powers to demand timely information from sponsors.***

Scheme governance

14. Governance is the processes and structures through which decisions are taken. Good governance is a key characteristic of a well-run pension scheme and helps trustees secure member benefits. An adequate system of internal controls contributes significantly to the effective management of scheme assets and protects the scheme from risks.

Independence

15. Trustees administer the scheme for the benefit of its members. Legally, the duties of all trustees are generally the same—those nominated by the employer are not "representatives" of the employer any more than member-nominated trustees "represent" the members. They must make decisions as trustees, balancing the different interests involved and disregarding any other role that they may have.[23]

16. There can, however, be concerns that members' interests are not adequately protected by trustees. For example, retired members may not be confident a board of trustees dominated by current employees can represent their interests. Malcolm Booth, Chief Executive Officer of the National Federation of Occupational Pensioners, called for a better balance of trustees on a board to ensure it is independent.[24] Similarly, WH Brignall, a retired member of the British Steel Pension Scheme, wrote that a board of trustees should reflect the demographics of the scheme membership in order to generate trust that it is operating in the interests of all members.[25]

17. We also heard concerns about trustee independence. In our earlier inquiry we were surprised to find that an employer-nominated trustee of the BHS schemes was also a board member of Taveta Investments, the top UK holding company of the Green empire. The public sector trade union UNISON suggested that requiring trustee boards to have at least 50% member representation would go a long way to ensuring better objectivity and accountability.[26]

21 Q3302 [Janice Turner]
22 SEI (PPF0070)
23 Association of Pension Lawyers (PPF0071)
24 Q3336 [Malcolm Booth]
25 WH Brignall (PPF0096)
26 Unison (PPF0074). The Occupational Pensioners Alliance (PPF0043) and National Federation of Occupational Pensioners (PPF0010) likewise called for a minimum 50 per cent of scheme trustees to be active or pensioner members

18. TPR can remove and replace trustees with an independent trustee, or add an independent trustee to a board, should it have concerns about the existing trustees' capability or behaviour.[27] Lay trustees may be insufficiently experienced to manage a scheme facing difficulties, or as an employee of the company they may suffer conflicts of interest in negotiations.[28] An employer does not need to have entered an insolvency process for TPR to exercise this power. Between January 2010 and May 2015 TPR made 184 appointments of independent trustees.[29]

Governance and scheme performance

19. The quality of trusteeship and pension fund governance has improved considerably over the last decade, but many schemes remain poorly governed. This can adversely affect a scheme in a number of ways. For example, if decision making takes several months, an investment opportunity will usually have passed.[30] In contrast, well governed schemes have highly-skilled individuals who can take balanced, informed and well-researched decisions on behalf of beneficiaries, measure performance against the scheme's strategic objectives, and have access to the resources and the time to hold advisers to account.

20. Research has found that good governance can boost scheme performance. The Pensions and Lifetime Savings Association (PLSA) reported that good governance can increase a fund's value by up to 1 per cent each year, and that funds fulfilling best practice criteria had a performance margin of 2 per cent a year or more over benchmarks.[31] Over time, this governance "bonus" significantly improves both a fund's efficiency and its ability to meet commitments to scheme members.

Incentivising good governance

21. As well-run pension schemes represent a lower risk, the PPF levy provides one possible lever to incentivise schemes and their sponsors to adopt best practice. PPF looked at the feasibility of this in 2010, and concluded:

> Governance has a significant role to play in the management of key pension scheme risks. Incentivising good governance behaviour through the risk-based levy is possible but there are considerable challenges.[32]

The PPF will consult on its levy rules for the three years from 2018–19 in early 2017.[33]

22. If governance indicators were to be used as a factor in the PPF levy, it would be essential for it to be based on a few, easily identifiable indicators of good governance. Steps would also need to be taken to prevent less scrupulous sponsors gaming the process: it should not be a box-ticking exercise. There may also be a strong case for exempting small schemes for which the costs of making and demonstrating governance changes could exceed the benefits.

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27 Department for Work & Pensions (PPF0016)
28 AlixPartners (PPF0052)
29 The Pensions Regulator, Number of time TPR has appointed an independent trustee, FOI 2015–05–06, May 2015
30 Pension Insurance Corporation (PPF0100)
31 Pensions and Lifetime Savings Association, DB Taskforce: interim report, October 2016
32 Pension Protection Fund, Future of the Risk-Based Levy - Reflecting good governance practices and risk management, August 2010
33 Pension Protection Fund, Review of the Levy Framework for the Third Triennium, July 2016

23. One option would be to offer a small percentage levy discount for large schemes that met a good governance standard. As the PPF would still need to collect the same total amount of levy, this would mean large schemes that did not meet the standard would pay a higher levy. This would incentivise schemes to improve governance.

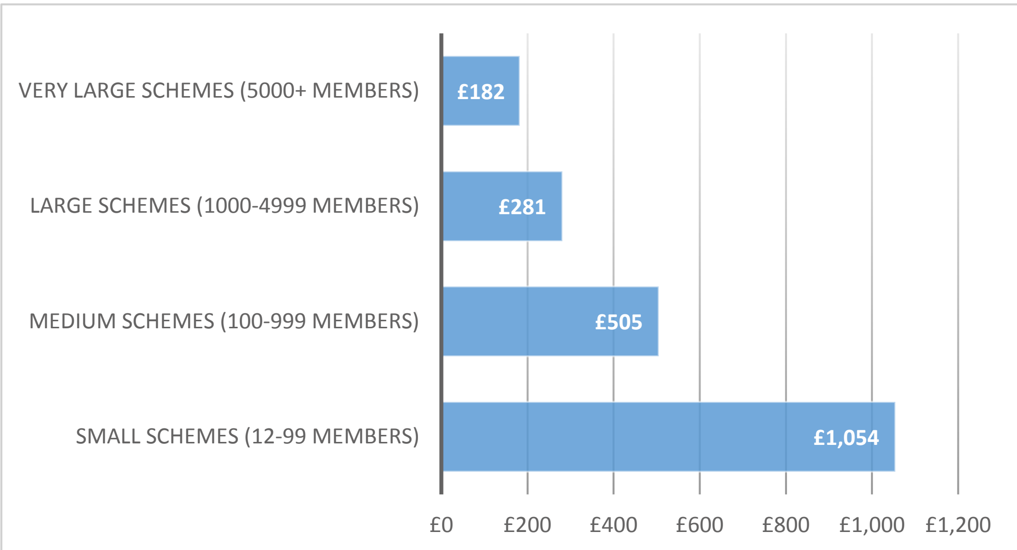
24. **A well governed pension scheme is at less risk of falling into the PPF. Accounting for governance in the PPF levy could incentivise the reduction of governance risk.** ***We recommend that, as part of its forthcoming review of its levy rules for the three years from 2018–19, the PPF re-examine how the levy framework could incentivise schemes to improve governance. Any such good governance discount would need to be based on objective and transparent criteria that are demonstrably associated with positive outcomes for members and that complement the levy model's calculation of insolvency risk.***

Consolidation

Advantages of consolidation

25. The DB pensions landscape is highly fragmented and ripe for consolidation. The many small schemes with small sponsors are at a disadvantage as they do not enjoy economies of scale, the benefits of being large. At the most simple level, fixed costs are shared among fewer members. Small schemes may also be less equipped to negotiate fees with asset managers and other suppliers. In 2014 TPR calculated that the average annual cost per member of running DB schemes with fewer than 100 members was over £1,000, and around £500 for schemes with up to 1,000 members. In contrast, average costs were less than £200 for schemes with more than 5,000 members (see Figure 4 below).[34]

Figure 4: Mean per member annual running cost by scheme size



Source: The Pensions Regulator, Defined benefit (DB) scheme running cost research, April 2014

34 The Pensions Regulator, Defined benefit (DB) scheme running cost research: a data report on the costs of running DB pension schemes (quantitative survey), April 2014

26. TPR found that smaller schemes are much less likely to have good governance than their larger counterparts. Smaller schemes have less frequent trustee meetings, trustees spend fewer days on trustee duty, and the typical knowledge and understanding of the trustee role is lower.[35] Similarly, trustees of subscale schemes may be unable to invest their way out of deficit effectively because, as the Pension Insurance Corporation noted:

> sourcing good quality higher yielding assets requires the employment of their own in-house investment expertise. For smaller pension schemes this is simply unattainable.[36]

27. Consolidation offers great potential to address problems of economy of scale — both in terms of investment performance and administration—and improve scheme governance. Steve Webb, Pensions Minister from 2010–2015, told us that being a trustee is a demanding and skilful task, and that there are not enough good ones to go around.[37] By consolidating schemes into fewer, larger entities, more members are likely to benefit from good trusteeship. Joanne Segars, Chief Executive of the PLSA, summarised some of the benefits of consolidation:

> If schemes are able to [consolidate] they are able to access better governance, but also able to leverage economies of scale and derive some very significant cost savings—for example, a 1% uplift in governance, or 1% uplift in governance benefits—and very significant reductions in fee savings to asset managers.[38]

28. Witnesses including Baroness Altmann, Pensions Minister from 2015–2016, and Paul Duffy of the SME PPF Levy Consultation Group warned that some small employers were being crippled by their pension obligations.[39] In effect, they had become annuity providers that continued to exist only to pay pensions. As Baroness Altmann explained:

> There are a number of small companies and charities who cannot cope with the costs of their defined benefit scheme, but also cannot get out of those without going bankrupt, or in some cases you have non-incorporated sponsors who are going to be personally bankrupted, lose their homes, lose everything, because of the costs, which in particular are the costs of annuities.[40]

29. The PLSA told us that consolidation would also benefit DB scheme regulation. Rather than "a selective and sometimes box-ticking approach across the board" of 6,000 schemes, TPR would be better equipped to engage in-depth with fewer schemes.[41] Joanne Segars noted:

35 The Pensions Regulator, Trustee Landscape Quantitative Research: a report on the 2015 Trustee Landscape research, October 2015; The Pensions Regulator, Trustee Landscape Qualitative Research: further investigations into board dynamics and trustee training, July 2016
36 Pension Insurance Corporation (PPF0100)
37 Q3160 [Steve Webb]
38 Q3339 [Joanne Segars]
39 Qq3271 [Paul Duffy], 3284 [Baroness Altmann]
40 Q3283 [Baroness Altmann]
41 Pensions and Lifetime Savings Association (PPF0090)

> If we had fewer, larger schemes, then it would be much easier for the Regulator to have a very different and more supervisory relationship with those larger schemes and, therefore, be able to intervene more easily with the sponsors and with the schemes.[42]

30. The issue of consolidation is not unique to the UK. Australia and the Netherlands provide examples of successful consolidation initiatives.[43] Joanne Segars told us that pension schemes in the Netherlands had fallen in number over the last ten years from 800 schemes to just over 300.[44]

Partial consolidation

31. Consolidation can take various forms.[45] At its simplest, schemes can consolidate back-office functions such as administration. Schemes may, for example, be able to make savings by using shared advisers and investment managers.[46] The Minister told us, however, that while such a solution looks good on paper, it does not deal with the crux of the problem: there would still be two sets of trustees, two sets of liabilities, two sets of assets. The merger of back office functions was "not really answering the question" of how to deal with the large number of subscale schemes.[47]

32. A more extensive form of consolidation is to merge and pool assets. Joanne Segars said that this approach is starting to work quite successfully in the local government sector.[48] A few companies that have inherited multiple DB schemes have also created asset pools and unified boards of trustees.[49] The Minister acknowledged that a key advantage of this approach is "that there is a load of money there to invest more wisely in better things and save some costs". However, he went on to caution:

> but then you also have the problem of dealing with all sorts of different top structures with all sorts of different interests, because it is an individual pension fund with different circumstances.[50]

Barriers to full consolidation

33. Alan Rubenstein, Chief Executive of the PPF, told us he was unconvinced that anything less than full merger of schemes assets and liabilities would be beneficial:

> If one is talking purely about pooling of investments or pooling of administration, but leaving the fundamental schemes separate, I do not think one gets any benefit from that.[51]

42 Q3366 [Joanne Segars]
43 Pensions and Lifetime Savings Association, DB Taskforce Interim Report, October 2016
44 Q3339 [Joanne Segars]
45 Qq3341 [Joanne Segars], 3463 [Andrew Warwick-Thompson], 3486 [Richard Harrington MP]
46 Q3279 [Paul Duffy]
47 Q3486 [Richard Harrington MP]
48 Q3341 [Joanne Segars]
49 Q3463 [Andrew Warwick-Thompson]
50 Q3486 [Richard Harrington MP]
51 Q3396 [Alan Rubenstein]

TPR highlighted the huge potential of such full merger, but also its considerable problems.[52] The more comprehensive the consolidation, the greater the potential efficiency gains but also the greater the complexity of achieving it. Different schemes offer different levels of benefits and have different uprating and eligibility rules. They also have different levels of covenant support from their sponsors. At the most basic level, each scheme will have a different set of promises, and a different funding level. It would be hard to merge these, particularly if sponsors are unwilling to be held liable to fulfilling the promises of other firms.[53]

34. All parties to a consolidation would need assurance that liabilities and risks were properly aligned. This could be very difficult to achieve in practice.[54] Neil Carberry, Director for People and Skills at the Confederation of British Industry (CBI), explained:

> The big blocker is how you handle the risk. For companies and CBI memberships the cost of the scheme is always what gets reported. It is the future risk to the company of funding the scheme that worries people rather more. It is not what we are paying today; it is what we might pay tomorrow.[55]

Witnesses were however in broad agreement that, if the barriers to consolidation could be overcome, it could be enormously beneficial to the efficiency and sustainability of DB schemes and, ultimately, therefore, to scheme members and PPF levy payers.

Achieving consolidation

35. Consolidation in both the Netherlands and Australia involved a big push from both regulators and government.[56] Lesley Titcomb said that some sort of legislative intervention is likely to be required to push forward consolidation in the UK.[57] Baroness Altmann told us that during her time in Government the Department for Work and Pensions (DWP) had started to look at the issue, and that she hoped it continued to do so.[58] Her successor, Richard Harrington, acknowledged the Government would have to "nudge" consolidation.[59] However, disappointingly little progress has been made so far.[60]

36. We were similarly disappointed by the absence in evidence of firm suggestions about how consolidation could be achieved in practice. The Minister concurred:

> We cannot just keep endlessly talking about consolidation without doing something.[61]

The PLSA's DB Taskforce is currently examining the issue, and plans to publish proposed solutions and recommendations in March 2017. We await its report with interest, but are disappointed that the PLSA, as the industry's national association, has not shown greater

52 Q3463 [Andrew Warwick-Thompson]
53 Qq3155 [Steve Webb], 3279 [Paul Duffy]
54 Q3486 [Richard Harrington MP]
55 Q3342 [Neil Carberry]
56 Q3341 [Joanne Segars]
57 Q3464 [Lesley Titcomb]
58 Qq3282 to 3285 [Baroness Altmann]
59 Q3486 [Richard Harrington MP]
60 Letter from Richard Harrington MP regarding defined benefit pension fund consolidation, 14 November 2016
61 Q3486 [Richard Harrington MP]

leadership in tackling this issue up until now. The problems of subscale DB schemes is not new or a consequence of the financial crisis, and workable solutions could have been implemented sooner to the benefit of scheme members.

37. **The consolidation of small schemes offers clear and substantial benefits to members in terms of efficiency and sustainability. These potential rewards are longstanding, so the paucity of practical suggestions of how to achieve it was very disappointing. Successive governments, and the pensions industry, should have acted sooner.** ***We recommend the Government comes forward in its forthcoming Green Paper with proposals for removing regulatory and other barriers to scheme consolidation.***

An aggregator fund

38. At present, the only legal way a sponsor can divest itself of a DB scheme is to buy it out through an insurance company. This may, however, be prohibitively expensive.[62] Furthermore, some small employers have found that buy-out companies simply do not want to take on small schemes, so even that option is not available to them.[63] Baroness Altmann suggested that some kind of pooled mechanism would be a reasonable alternative way of addressing this issue.[64]

39. Three successive Pensions Ministers made the case for a statutory aggregator fund to consolidate small schemes. Steve Webb explained that industry bodies were considering how a template scheme for small schemes to join might be created. He explained:

> You would take your very small engineering company that has this scheme. They might have to do something about the deficit, if they can, and then they potentially—initially on an opt-in basis—allow the members of their scheme to opt into this new thing, which perhaps the PPF run, which gets bigger and bigger and bigger and becomes a place where lots of these small schemes can get scale. There is a lot of detail you would have to think through, but it is an idea that is worth a good look at and might benefit small firms.[65]

Baroness Altmann also set out what this might look like:

> If we were to have a division of the PPF that, let's say, took in assets from the existing schemes, the employers would be required to pay a premium, but not the extent of an annuity premium, in order to be able to say, "That is our limit of responsibility on a self-sufficiency basis". The PPF, or whatever this central discontinuance fund arrangement or this wind-down/pooled fund arrangement would be, would continue to manage the funds on an ongoing basis. If the funding environment becomes easier, great. If it does not, then the schemes would have been assessed as having enough to keep going without bankrupting the sponsoring employer.[66]

62 Q3272 [Paul Duffy]
63 Q3343 [Joanne Segars]
64 Q3283 [Baroness Altmann]
65 Q3155 [Steve Webb]
66 Q3286 [Baroness Altmann]

The current Minister concurred, suggesting a statutory aggregator fund was desirable:

> there must be some kind of product or system that involves a nonPPF PPF that is at full level, not at a discounted level, where small subscale funds would be quite happy to put their members' money and benefits into, knowing that they are going to have a chance of getting better returns.[67]

40. Alan Rubenstein confirmed that the PPF would take up this task if asked. He cautioned, however, that the difficulties in consolidation should not be underestimated:

> I genuinely think it is a very difficult area because of the difficulty in terms of different funding levels. When we look at it from the PPF, the things we look at for our risk-based levy are essentially, "What is the risk that the sponsor of the scheme will fail and what is the deficit that the PPF will have to make up if it does?" If we can bring schemes to a common level of funding by some means, whether it is by employer contributions or whatever, then that might be one sense in which you can bring a group of schemes together and look at this pre-PPF idea that Steve Webb talked about. I think it is quite tricky just in terms of the mechanics of it, but it is something certainly worth studying.[68]

41. **There is a very strong case for the creation of a statutory aggregator fund to facilitate the consolidation of the assets and liabilities of small schemes. This could be managed by the Pension Protection Fund (PPF), but there would not be a requirement for the sponsoring employer to be insolvent for the scheme to be included. This would be an attractive alternative to the insurance company buy-out market, especially for smaller employers which often find this option prohibitively expensive or unavailable. An aggregator fund would bring greater stability and certainty to scheme members. It would also increase the chances that small employers could continue to thrive, invest and employ. We envisage a proposal whereby the sponsoring employer would agree a conditional programme of contributions at the point of transfer to the aggregator form but would then cease to be otherwise connected to the scheme.**

42. ***We recommend the Government consult in its forthcoming Green Paper on proposals to create a statutory aggregator fund for defined benefit (DB) schemes to be managed by the PPF. This consultation should consider points including:***

- ***how continued funding for the aggregated schemes should be secured;***
- ***the nature of clearance required for sponsor contribution plans and to ensure consolidation was in the interests of members;***
- ***which schemes would be eligible, including whether it should be restricted to closed schemes or schemes under a certain size limit; and***
- ***whether a uniform benefit structure would be required and, if so, how this could be achieved.***

67 Q3487 [Richard Harrington MP]
68 Qq3399, 3409 [Alan Rubenstein]

Cashing-in small DB pension pots

43. In certain circumstances, a member of a DB scheme can commute their pension into a lump sum, or invest it in a personal pension. A person who is aged at least 55, or is retiring at an earlier age because of ill health, has two main options:

- they may be able to take their total pension benefits as a "trivial commutation lump sum" if the combined total value of those pensions (excluding the State Pension) is less than £30,000; or
- they may be able to take up to three individual pensions as lump sums, provided each is worth less than £10,000, without reference to the value of their other DB benefits.

People who are in a funded public sector scheme (such as the local government pension) or a private sector DB scheme are able to give up their scheme benefits in return for a lump sum to invest in another pension scheme. A person is required to get financial advice first if the value of the pension is £30,000 or more, but all are encouraged to seek advice or guidance.[69]

44. There are benefits for schemes in commuting small pensions into lump sums. As a member's DB pension rights are extinguished, there will be no future funding risk for the scheme associated with those benefits. Individuals with small pension pots have often left the company, so buying out their rights helps to refocus the scheme on the current workforce. Furthermore, a scheme will lower its administrative burden and running costs by reducing the number of trivial pensions in a scheme.[70]

45. Though for many a DB pension is a blue-riband product, lump sum commutations can also be of great benefit to some pension scheme members, particularly given the "very generous cash transfer values" on offer.[71] A lump sum might, for example, enable an individual to pay off a credit card bill or a mortgage. A small, regular pension over many years may be of less value to someone than money to spend or invest differently now. Baroness Altmann stressed that readier access to DB pension cash-ins was consistent with the spirit of the Government's freedom and choice reforms to pensions which gave individuals greater flexibility in deciding how to use their own money.[72] Steve Webb concluded that facilitating the taking of lump sums could be of great benefit to scheme and member alike:

> The company is happy, because they de-risk, they get the person out of the scheme. The punter is happy, because they are getting offered an incredible amount of money, which might be good value in certain circumstances.[73]

69 The Money Advice Service, Transferring out of a defined benefit pension scheme
70 Q3294 [Baroness Altmann]
71 Qq3177 [Steve Webb], 3294 [Baroness Altmann]
72 Q3294 [Baroness Altmann]
73 Q3178 [Steve Webb]

46. The current Pensions Minister agreed that this was an issue that should be looked at, but cautioned that consumers needed to be protected:

> However small the amount of money is, there has to be someone that people can turn to and ask, at least for guidance if not for advice, simply because for them it may be the largest single sum of money that they have ever had.[74]

Steve Webb warned that the appropriate advisory network was not yet in place:

> there is not an advice framework to help individuals make those decisions wisely, so to say "No" when it is not in their interest, because the advice framework on these transfers was written years ago, when everybody bought an annuity.[75]

In October 2016 the Government announced plans to consolidate existing sources of publicly-funded financial guidance into a single body. It is consulting on how this model will operate.[76]

47. **Many DB pensions are small. They can be disproportionately costly for schemes to administer and hold assets for, and a very small regular pension payment may be less valuable to a member than its cash value or an alternative investment. It is clear that in certain circumstances it is mutually beneficial for a pension scheme and its members with small pensions to commute these into lump sum payments. It is essential, however, that a person contemplating taking this step has access to advice and guidance on whether it is the right decision for them.**

48. ***We recommend the Government consult in its forthcoming Green Paper on relaxing the rules for taking small DB pension entitlements as lump sums. We further recommend the Government sets out in response to this report how it proposes to ensure that DB pension members have adequate access to advice and guidance in order to assess the merits of taking lump sums.***

74 Qq3491–3492 and 3496 [Richard Harrington MP]
75 Q3178 [Steve Webb]
76 HM Treasury and Department for Work & Pensions, Public financial guidance review: consultation on a single body, December 2016

3 Identifying and intervening in potential problem schemes

Regulatory approach

49. The UK regulatory regime for DB pensions operates on a scheme-by-scheme basis. Given the large number of DB schemes in the UK, it would be unrealistic, and indeed undesirable, to expect TPR to oversee all schemes closely. There is wide variation in both the strength of sponsoring employer covenants and the nature and extent of scheme liabilities.[77] Instead, as TPR explained:

> the framework establishes us as a regulator not a supervisor, so, typically, we do not maintain an ongoing relationship with all schemes, but rather engage with them in connection with certain events.[78]

The challenge for TPR is to identify the right schemes to intervene in, at the right time, with the right degree of action. In doing so, it must balance objectives that are often in tension.

TPR's objectives

50. TPR's statutory objectives require it to consider the interests of pension scheme members, the PPF and the employer:

- protecting the benefits of members of occupational pension schemes;
- reducing the risk of situations arising which may lead to compensation being payable from the PPF; and
- minimising any adverse impact on the sustainable growth of an employer.[79]

51. The last of these objectives was introduced under the last Government. Steve Webb explained the rationale:

> If you have a situation where [a firm] could make a go of the business if only they put the money into a new bit of kit, then in principle the regulator ought to say, "The sustainable growth of the sponsoring employer is best fostered by them doing that investment rather than shovelling money into the pension fund. That is okay". In principle, that is a flexibility that is there.[80]

A more proactive TPR

52. TPR should ideally look for signs of problems looming for schemes, and act promptly to work with trustees to ameliorate them. Had TPR been more proactive once the BHS pension scheme's funding difficulties became evident, the problems might have been nipped in the bud and scheme members may be facing a more certain future. TPR told us

77 Q3143 [Steve Webb]
78 The Pensions Regulator (PPF0091)
79 The Pensions Regulator (PPF0091)
80 Q3155 [Steve Webb]

that it uses a series of triggers, such as valuation of assets and liabilities, and the strength of the employer, to identify which schemes to follow up on.[81] Janice Turner suggested that such targeting was a wiser use of TPR's resources than an across-the-board increase in intervention.[82]

53. We heard that TPR could foster a more open and constructive ongoing relationship with trustees. This could take the form of ongoing support, guidance and education through what can be challenging processes.[83] The Association of Pension Lawyers (APL) suggested that a more proactive TPR could become involved in funding negotiations at an earlier stage if trustees were concerned that agreement with their sponsor would not be reached.[84] Andrew Bradshaw suggested that trustees would benefit from the type of relationship with TPR whereby they would:

> pick up the phone and chat through where there might be concerns without fearing they had to go through a very formal process.[85]

TPR told us that pre-valuation engagement with higher-risk schemes was a growing part of its work. Such proactive intervention, it said, enables TPR to "influence the outcome more robustly" than its standard approach of waiting for a valuation to be submitted.[86]

54. We heard TPR could also assist trustees to assess the information they are being given by a sponsor. The Government Actuary wrote:

> In practice, whilst covenant assessments can assist trustees in understanding the employer's strength relative to the scheme, it can still be very difficult for trustees to establish whether an employer has a genuine need to reduce contributions to its scheme due to affordability issues, or whether it is trying to use the flexibilities within the regime to pay a lower level of contributions than might really be appropriate given the relevant circumstances.[87]

55. Chris Martin, an independent trustee, told us that TPR would be more effective if it made more use of its existing powers:

> I have a definite sense that there is sometimes a reluctance to use the powers because it might provoke challenge. To my mind, a regulator should be challenged. It develops its powers, it develops its use of its powers by being challenged. Its power to impose a schedule of contributions is one that you would have thought in a decade it would have used, but as far as I am aware, that has not been used. So there may be a cultural thing there that perhaps says you develop better regulation by being challenged and by seeing the way you shape regulations for the future.[88]

56. TPR recently announced TPR Future, a review that will cover all aspects of its regulatory remit. The review will look at its operational practices, how TPR uses its powers

81 Q3443 [Lesley Titcomb]
82 Q3315 [Janice Turner]
83 Association of Pension Lawyers (PPF0071)
84 Association of Pension Lawyers (PPF0071)
85 Q3319 [Andrew Bradshaw]
86 The Pensions Regulator (PPF0091)
87 Government Actuary's Department (PPF0103)
88 Q3318 [Chris Martin]

and other regulatory tools, and consider whether its resources are adequate. While we welcome this review, we note that TPR has taken over four months since our comments on its lack of urgency in handling the BHS case to initiate it, and that it expects the review to take about five months to complete.

57. **The Pensions Regulator (TPR) has a substantial suite of powers. It is, however, reluctant to use some of them. This is particularly true of interventions before a scheme is in severe stress which could nip potential problems in the bud. Furthermore, we get the impression that it can be somewhat aloof in dealing with trustees when it is well placed to provide timely, informal guidance. We welcome TPR's announcement of a review of its regulatory approach and will follow its progress with interest.**

Triennial valuations and recovery plans

58. Schemes must have sufficient assets to pay out benefits as they fall due. Funding rules require trustees to carry out a valuation at least every three years to assess whether they have sufficient funds to meet members' benefits.[89] Valuations are based on assumptions agreed by trustees and employers. Where the scheme is in deficit they must put in place a plan to repair any deficit. This is known as a recovery plan. Any recovery plan will need to reflect the needs of the scheme and the strength and plans of the employer.

The valuation process

59. Trustees can choose the date when they carry out valuations, and have up to 15 months to agree their valuation and recovery plan with the scheme sponsor and submit these to TPR.[90] TPR told us:

> In practice, this provides significant flexibility, enabling trustees and sponsoring employers to agree assumptions, funding targets and recovery plans that are right for the scheme and sponsor. It enables them to smooth out changes in valuations over the period of the recovery plan and results in the level of deficit recovery contributions paid remaining far more stable over time than the volatility in valuations would suggest.[91]

60. Trustees and sponsors must agree an appropriate method to value assets and liabilities. The Government Actuary explained that the discount rate used for valuing a scheme should be prudent, taking into account the yield on assets held by the scheme and yields on government or other high-quality bonds. There is no single right discount rate. Although there is flexibility in the system, scheme funding statistics show that discount rates used by DB pension schemes for calculating liabilities since 2005 have consistently been around 1 per cent above gilt yields.[92] Neil Carberry described this as "deeply, deeply risk averse".[93] The Trades Union Congress similarly questioned whether gilts were an appropriate basis for valuation.[94] The effect of cautious assumptions was to inflate apparent

89 Pension Act 2004, section 224
90 The Occupational Pension Schemes (Scheme Funding) Regulations 2005 (SI2005/3377)
91 The Pensions Regulator (PPF0091)
92 Government Actuary's Department (PPF0103)
93 Q3347 [Neil Carberry]
94 Q3287 [Tim Sharp]

funding problems: Neil Carberry said it means "we default to a very, very high number when it comes to deficits".[95] He noted that alternative valuation methods can be used, with dramatically different outcomes:

> If you look at the First Actuarial index that they launched the other week, that takes a more fair-value approach, you get a surplus figure for DB in aggregate.[96]

The frequency of valuations

61. TPR suggested that the frequency of valuations should be reconsidered. Rather than the current, inflexible, triennial process, TPR argued there was merit in introducing more regular valuations for higher-risk schemes, whilst allowing a longer period between formal valuations for well-run and well-funded ones.[97] Andrew Bradshaw told us he supported such flexibility.[98]

62. **TPR has a scheme-specific approach to regulation, but this does not extend to the frequency of scheme valuations. *We recommend that the Pensions Regulator should adopt a risk-based approach to scheme valuations. Riskier schemes should provide them more frequently, while low risk schemes should not be required to report as regularly.***

The speed of valuations and recovery plans

63. TPR is unable to intervene until either the valuation and accompanying recovery plan has been submitted or the 15-month window is completed.[99] But nowadays it does not take nearly that long to complete the valuation part of this process. According to the APL, because of technological developments it is unusual for this period to be required to prepare actuarial calculations, "which could be an argument for shortening the 15 month period".[100] Andrew Bradshaw told us that in theory a valuation could be agreed in a matter of days.[101] Likewise, TPR told us that the basis of the valuation process could be revisited in light of improvements in technology and to take advantage of real time information.[102]

64. Steve Webb told us that the length of time afforded for valuations could lead to inertia:

> There have probably been cases where things have been allowed to drift too long, where you are nearly on the next triennial valuation before the last one has been sorted out and I feel that needs to be curtailed.[103]

If TPR was kept informed of progress in the valuation process, without having to wait for a recovery plan to be agreed, it may be able to spot schemes that are running into trouble and intervene much sooner.

95 Q3347 [Neil Carberry]
96 Q3347 [Neil Carberry]
97 The Pensions Regulator (PPF0091)
98 Q3313 [Andrew Bradshaw]
99 Pensions Act 2004, section 231
100 Association of Pension Lawyers (PPF0071). See also Q3215 [Rosalind Connor]
101 Q3313 [Andrew Bradshaw]
102 The Pensions Regulator (PPF0091)
103 Q3159 [Steve Webb]

65. Negotiations between scheme trustees and the sponsor to agree a recovery plan in the light of a scheme valuation can be a lengthy process. Joanne Segars told us: “they can be very, very complex exercises involving some quite tricky negotiations”.[104] Even though valuations can be completed more quickly, it is clearly important to allow adequate time for subsequent negotiations to be completed.[105] Difficult negotiations should, however, alert TPR to potential concerns.

66. In the case of BHS, the trustees and the employer took 17 months, after TPR granted a two month extension, to agree the 2012 valuation and the notorious 23 year recovery plan. TPR opened a funding case on its receipt in September 2013, but moved slowly in the months that followed and did not request further information until January 2014. Very little progress was made in the following six months, by which point focus turned to a possible restructuring of the scheme. TPR had not closed its funding case by the point BHS was sold in March 2015.[106]

67. **Fifteen months is a long period for any negotiation. It is certainly far too long for a regulator to be kept in the dark. If a scheme valuation and recovery plan takes more than nine months to agree then TPR’s intervention in the scheme may well be warranted anyway. *We recommend that the statutory timescale for the submission of valuations and recovery plans be reduced to nine months. In instances where TPR has concerns about the sustainability of a scheme or the progress of recovery plan, it may be appropriate for it to intervene sooner to request information—for example, the valuation on which basis negotiations are ongoing. Similarly, TPR should encourage trustees to keep it updated on the progress of discussions and offer support where necessary.***

Flexibility in recovery plans

68. TPR’s Code of Practice on funding DB schemes states that recovery plans should be “appropriate”. While affordability of deficit contributions is a factor to consider, this does not mean that an employer should be expected to pay deficit contributions at a particular level simply because it could afford to contribute at that level, or because it has been paying them at that level in the past.[107] TPR accepts it is appropriate for trustees to agree variations to recovery plans in certain circumstances.[108] For example, if a company is experiencing a temporary period of bad financial health it would clearly not be in anyone’s interests to tip it into insolvency if, given a slightly longer recovery plan, it would be able to make good the contributions. It could also be counter-productive to inhibit investment by a company that would aid its long-term growth, which would strengthen the covenant for the scheme.[109]

69. In general, however, the long-term continuation of schemes would be better protected if sponsors reduced deficits as soon as possible. As Baroness Drake pointed out, the time

104 Qq3372 [Neil Carberry] and 3373 [Joanne Segars]
105 Willis Towers Watson (PPF0102)
106 Letter from Lesley Titcomb to Frank Field, 20 May 2016
107 The Pensions Regulator, Code of practice 03: Funding defined benefits, July 2014
108 Q3459 [Lesley Titcomb]
109 Q3348 [Neil Carberry]

to get employers to do this is when they are in a strong position because it is unsustainable to expect a stressed sponsor to do so.[110] Lesley Titcomb said that TPR encourages trustees to challenge the employer as to whether they really are paying everything they should.[111]

70. There is clear evidence that many sponsors could give greater immediate support to their pension schemes. TPR noted that while deficits for many schemes have increased in recent years, the average ratio of deficit recovery contributions to dividends has declined. For FTSE350 companies, the median ratio fell from 17 per cent of dividends in 2010 to less than 10 per cent in 2015. Ten times more was paid to shareholders than the DB schemes.[112] Steve Webb said: "regulators and trustees could be a bit tougher on the balance between money for the pension fund and money for the shareholders. I think that is somewhere there is give".[113] Rosalind Connor, from the APL, told us that, as a matter of law, sponsors who have money to put into schemes can be required to do so.[114]

Length of recovery plans

71. Figure 5 shows that the average length of recovery plans for DB schemes is about eight years, with a quarter having recovery plans of ten years or more.[115] In this context, the 23 year recovery plan insisted on by Sir Philip Green for the BHS pension scheme was wholly out of kilter. TPR is tasked with ensuring that a recovery plan is credible; if it is not, it should not be signed off. TPR is, however, unable to micro-manage all such plans given that over 80 per cent of nearly 6,000 DB schemes are in deficit.[116]

72. In May 2006 TPR established guidelines for valuations and recovery plans. These required that a recovery plan should be no more than ten years and the cash contributions should not be concentrated towards the end of the plan.[117] Failing to follow these guidelines could trigger a TPR investigation. In 2013, however, they were scrapped as part of "increased flexibility".[118]

110 Q3213 [Baroness Drake]
111 Q3458 [Lesley Titcomb]
112 The Pensions Regulator, Annual funding statement analysis: a review of defined benefit pension schemes with valuation dates between September 2015 and September 2016 (Tranche 11), May 2016
113 Q3151 [Steve Webb]
114 Q3215 [Rosalind Connor]
115 Q3456 [Lesley Titcomb]
116 Q3175 [Steve Webb]
117 This was another feature of recovery plans proposed by BHS.
118 John Ralfe Consulting (PPF0003)

Figure 5: Recovery plan lengths for DB schemes in deficit

Valuation period (Start/end Sept)	*2005-06*	*2006-07*	*2007-08*	*2008-09*	*2009-10*	*2010-11*	*2011-12*	*2012-13*	*2013-14*
Recovery plan lengths (years)									
Mean - all schemes in deficit	8.1	7.7	8.6	9.7	8.5	7.8	8.5	8.5	8.0
Distribution by percentile									
95th percentile	15.0	15.0	17.0	19.8	17.5	15.9	18.0	17.6	18.7
Upper quartile	10.0	10.0	10.0	12.0	10.0	10.0	11.0	11.0	10.2
Median	8.8	8.0	8.8	9.4	8.3	7.2	7.9	8.1	7.0
Mean RP length by funding level *(assets as % of technical provisions)*									
Less than 70%	9.5	9.6	11.4	11.1	10.7	11.7	12.3	11.9	13.2
70% to less than 80%	8.5	8.6	9.5	9.3	9.4	9.2	9.1	9.3	10.0
80% to less than 90%	7.9	7.8	8.1	8.2	7.4	7.1	6.7	7.4	7.8
90% to less than 100%	6.3	5.8	6.1	6.1	6.0	5.5	4.8	4.9	5.2
Number of RPs analysed	*2,127*	*1,888*	*1,840*	*2,048*	*1,937*	*1,652*	*1,770*	*1,726*	*1,439*

Source: Pensions Regulator Scheme funding statistics 2016 appendix

73. Support for a ten-year trigger, however, remains. Neil Carberry said that it was reasonable, and that there would need to be "a damn good reason" why it was longer,[119] a position supported by Joanne Segars and Alan Rubenstein.[120] Mr Rubenstein added that that longer recovery plans were often an indicator of greater underlying problems in the scheme sponsor.[121] TPR told us that they had "an opportunity […] to be clearer with schemes and with employers about what 'good' looks like in terms of funding arrangements and recovery plans".[122] We welcome this approach.

74. ***TPR needs to be tougher on deficit recovery plans. It should not be shy or slow in imposing a contribution schedule when a sponsor is not taking its responsibilities seriously. Recovery plans of more than ten years should be exceptional. Particular attention should also be paid to any plan which concentrates employer contributions in the distant future. As a general rule, the onus should be on sponsors to demonstrate that a recovery plan is reasonable in their specific circumstances.***

The PPF Levy

75. The PPF takes on the assets of schemes that transfer to it, recovers what it can from insolvent employers, and invests the assets to generate returns. The difference in funding required to pay member benefits at PPF levels is met by a levy on schemes eligible for the PPF. The levy acts as an insurance policy. Levy payments are divided into two parts: a scheme-based levy, based on a scheme's liabilities to members; and a risk-based levy, which takes account of the risk of a scheme's sponsoring employer becoming insolvent

119 Q3379 [Neil Carberry]
120 Qq3380 [Joanne Segars], 3405 [Alan Rubenstein]
121 Q3405 [Alan Rubenstein]
122 Q3445 [Lesley Titcomb]

and the amount of compensation that PPF might then have to pay. Levy payments are required to be at least 80 per cent risk based – currently they are around 95 per cent risk based.[123]

Balancing risk

76. There is a fine balance to strike between using the levy to incentivise sponsors to fund DB schemes adequately, and pushing struggling businesses nearer to the very situation it is seeking to insure against. We heard from businesses concerned by the scale and cost of the PPF levy, and changes in its calculation which led to significant changes in the bill faced. Paul Duffy told us that, for sponsors in the highest risk bands, insolvency risk "almost becomes a self-fulfilling prophecy if you get into those bands because you have been asked to pay a lot more money into the levy".[124] The burden of the levy could affect employment and investment decisions as well as employer contributions to the insured pension scheme.[125] In some cases the annual levy is larger than payments into the pension scheme itself. For example, one company told us it will pay £50,000 into its scheme in 2017, but £70,000 in PPF levy.[126]

77. Levy payments place a particular burden on the manufacturing sector, which in 2014–15 accounted for 26 per cent of total liabilities but 37 per cent of total levy payments. This was because it had the highest average insolvency probability of any industry.[127] The industry is characterised by a large proportion of firms of long standing with substantial legacy commitments to DB schemes. Similarly, we heard concerns that smaller businesses with DB schemes, which may already suffer from diseconomies of scale,[128] facing increased levy payments as a result of changes to the data used to assess insolvency risk.[129] Alan Rubenstein said the PPF was open to sponsors that have trouble paying the levy paying in instalments.[130] We welcome this flexibility and encourage the PPF to ensure this option is more widely known and understood.

Mutual societies

78. A further criticism of the levy was its treatment of employers in the mutual sector. Mortgage age data used in the calculation of insolvency risk are collected from Companies House.[131] Many mutual societies are not, however, incorporated under the Companies Act 2006 and data for them are not available from that source. Such companies are instead given a "neutral" mortgage age risk score by the PPF. Co-operatives UK told us that this was unfair given the nature of mutual employers:

123 Pension Protection Fund (PPF0088)
124 Q3273 [Paul Duffy]
125 Q3273 [Paul Duffy]
126 Q3269 [Paul Duffy]; Name withheld (PPF0122)
127 The Pensions Regulator and Pension Protection Fund, The Purple Book: DB pensions universe risk profile 2015
128 SME PPF Levy Consultation Group (PPF0019). See also Q3269 [Paul Duffy]
129 SME PPF Levy Consultation Group (PPF0019) and Q3269 [Paul Duffy]. For overall levy figures, see Pension Protection Fund (PPF0001)
130 Q3422 [Alan Rubenstein]
131 Part of the data used to calculate insolvency risk is based upon the age of the most recent mortgage or charge a sponsor has. For this to be included in the calculation, the mortgage must be registered at UK Companies House or public registries in Australia, Gibraltar, Hong Kong, India, Ireland, Isle of Man, Malaysia, New Zealand and Singapore. Pension Protection Fund, A guide to the Pension Protection Levy 2015/16, 2015

> Mutual societies with PPF-eligible pension schemes are overwhelmingly prudent, stable and long established businesses, with typically few or no charges on their assets, so a scheme average neutral scoring for them is particularly distortive.[132]

They told us that many mutual societies had seen their PPF levy charges double as a result, to over £1 million for the largest affected schemes.[133] This, they said, was unfair: the affected schemes had not become riskier, but they were being disadvantaged by the form of legal incorporation the companies use and the absence of adequate data from levy calculations.[134]

79. Co-operatives UK said that an alternative data source, the Financial Conduct Authority (FCA) Mutuals Register, could be used for mortgage age data for the calculation of risk for mutual societies.[135] The PPF considered this issue but was concerned that the FCA data were not sufficiently complete as mutuals were not required to register mortgages. While it would be possible to fill in gaps with self-certification, the PPF had found such methods problematic in the past.[136] Alan Rubenstein told us, however that the PPF was "constantly trying" to make the levy calculation better. He was aware of the situation facing some mutual societies and was trying to resolve it.[137]

80. **We support the risk-based PPF levy. It is important, however, that it does not increase insolvency risk by imposing disproportionate costs on schemes. We are particularly concerned that some groups of employers without access to expensive professional advice, or with atypical business models, may be disadvantaged by the current levy calculations. A risk-based levy is only fair if it accurately reflects risk.** ***We recommend that, as part of its forthcoming review of its levy rules for the three years from 2018–19, the PPF examine the effect of the levy framework on particular types of employer, including mutual societies and SMEs. It should rectify or otherwise adjust for any anomalies which adversely affect such groups.***

132 Co-operatives UK (PPF0059)
133 Co-operatives UK (PPF0059)
134 Co-operatives UK (PPF0059)
135 Co-operatives UK (PPF0059)
136 Pension Protection Fund, The 2017/18 Pension Protection Levy Consultation Document, September 2016
137 Q3412 [Alan Rubenstein]

4 Stressed schemes

81. A pension scheme is stressed when it is significantly underfunded and there is major doubt as to the employer's ongoing ability to provide necessary financial support. A number of factors can compromise the viability of a pension scheme. Liabilities may grow, the performance of the scheme's investments may disappoint, or adverse trading conditions can weaken the employer. Growing deficits necessitate deficit repair contributions from the employer that it may struggle to pay.

Binary outcomes – subsist or collapse

82. The current framework is almost entirely binary in its outcomes for stressed schemes, whereby the sponsor either:

- struggles on attempting to sustain the covenant while the members receive their full promised benefits; or
- fails, triggering the scheme's entry into PPF assessment, from which point the members receive PPF levels of benefit.

83. The PLSA's DB Taskforce said this binary structure can foster "regulatory misalignment and a lack of flexibility for solvent schemes". The Taskforce described the UK's regulatory approach as "inflexible and rigid" compared to OECD counterparts.[138] The limited scope for compromise between members receiving their benefits in full or being restricted to PPF compensation was characterised as a "cliff edge" approach.[139]

84. The Pensions Institute argued that the binary outcomes framework operated to the detriment of the PPF, scheme members and the wider economy:

> In some cases, insolvency might be preventable. In others, schemes will transfer to the PPF with far fewer assets than might otherwise have been the case, transferring the stress to the PPF in its role as the industry's compensation scheme.[140]

85. The PLSA Taskforce found that "schemes have typically only sought to examine alternative means to structure their benefits when insolvency is inevitable".[141] By that stage compromise may be unachievable. The APL told us that "the current regime does not contain measures for addressing schemes" in situations where the sponsor is unable to commit to a recovery plan which TPR considers acceptable. They suggested that TPR could "provide more engaged and practical support (with realistic solutions) in these circumstances" but that its engagement, particularly with smaller schemes, is hindered by a lack of resources.[142]

138 Pensions and Lifetime Savings Association, DB Taskforce Interim Report, October 2016
139 Employer Covenant Working Group (PPF0038)
140 The Pensions Institute, The greatest good for the greatest number: an examination of early intervention strategies for trustees and sponsoring employers of stressed defined benefit schemes, December 2015
141 Pensions and Lifetime Savings Association, DB Taskforce: interim report, October 2016
142 Association of Pension Lawyers (PPF0071)

Regulated Apportionment Arrangements

86. If a sponsoring company finds itself at serious risk of insolvency, and the sponsor and trustees are unable to agree to a modification of pension benefits to relieve the pressure, the sponsor may only have a viable future if it cedes responsibility for the pension scheme. A Regulated Apportionment Arrangement (RAA) is a statutory mechanism which allows a company to free itself from financial obligations to a pension scheme in order to avoid insolvency, provided that certain conditions are met and the RAA is approved by both the TPR and the PPF. An RAA was recently approved in the case of Halcrow, an engineering company. Under this arrangement, Halcrow pension scheme members were given the option of joining a new scheme which offers benefit levels lower than those provided by the original scheme but above those provided by the PPF. The scheme is backed by a guarantee from Halcrow's parent company, CH2M, and received both a cash payment from CH2M and an equity stake in Halcrow. TPR concluded that pensions and jobs were protected by the agreement.[143]

87. RAAs are, however, extremely uncommon. TPR has approved RAAs in relation to only 26 schemes. TPR will only approve one if employer insolvency is inevitable, and the RAA provides a demonstrably better outcome than insolvency. As an RAA formally severs the link between the sponsoring employer and scheme, it may be an attractive solution to a company otherwise facing insolvency. Therefore TPR, in order to protect both the PPF and scheme members, "applies a stringent set of criteria to avoid RAAs being abused through employers' responsibilities being inappropriately passed to the PPF".[144] TPR guidance says: "the regulator and the PPF will not agree to such arrangements lightly. It would not be right for levy payers to be compelled to fund the PPF if employers offload their schemes without providing appropriate value to the scheme or the PPF".[145]

88. Chris Martin is Chair of the both the Halcrow scheme, in which an RAA was agreed, and the BHS schemes, in which a similar restructuring involving an RAA was explored with TPR prior to the sale of the company but never formally submitted.[146] Mr Martin told us that the tools available for trustees of stressed schemes for working with sponsors and TPR were "very blunt".[147] He continued:

> the process is just set up to take too long. It is too clunky; it has too many interventions. That is why unfortunately so many schemes fail and end up in the PPF.[148]

89. TPR expects RAA applications to be accompanied by an application for clearance. Clearance is an assurance that TPR will not use its anti-avoidance powers with respect

143 The Pensions Regulator, Regulatory intervention report issued under s89 of the Pensions Act 2004 in relation to Halcrow Pension Scheme, July 2016
144 The Pensions Regulator (PPF0091)
145 The Pensions Regulator, Regulated apportionment arrangements (RAAs) and employer insolvency, August 2010
146 Work and Pensions and Business, Innovation and Skills Committees, First Report of the Work and Pensions Committee and Fourth Report of the Business, Innovation and Skills Committee of Session 2016–17, BHS, HC 54; The Pensions Regulator, Regulatory intervention report issued under s89 of the Pensions Act 2004 in relation to Halcrow Pension Scheme, July 2016
147 Q3322 [Chris Martin]
148 Q3322 [Chris Martin]

to that transaction or restructuring.[149] TPR accepts draft clearance applications.[150] Chris Martin told us that the level of detail required, however, meant that highly complex proposals needed to be worked to near-completion before TPR would consider them:

> Clearance is generally developed to the point where it is near-perfect before it is considered. I think it should be more of an iterative process, with the regulator being part of that discussion and developing the plan.[151]

90. Other witnesses argued that reducing timescales for RAAs would be desirable. RAAs currently involve a statutory 28 day period between TPR issuing a warning notice that it intends to approve an RAA and the final notice taking effect. The purpose of this interval is to give affected parties the opportunity to make representations about whether such approval should be given. However, this rationale has been questioned. The APL identified the hiatus as a "key failing" of the legislation which contrasts unfavourably with the clearance process, where TPR "can and does helpfully condense the process where appropriate so that the warning notice and final determination notice can be issued very close together (sometimes within hours)". It argued that the 28-day RAA period serves no useful purpose and that it could "positively endanger the ability to rescue distressed companies", particularly in cases where complex negotiations are continuing.[152] Material changes in circumstance during the 28 day period could necessitate the reissuance of the warning notice, restarting the clock and "compounding the timing problem".[153]

91. More radically, Chris Martin called for the removal of the requirement to demonstrate inevitable insolvency for an RAA to proceed:

> One of the tests is that insolvency has to be inevitable in the next 12 months. By the time you have got to within 12 months of insolvency, it is self-fulfilling, so that test itself should be removed.[154]

Lowering the 'inevitability' threshold, such that RAAs could be used in cases where insolvency is merely very likely rather than inevitable, could be a means of delivering middle way outcomes that are better for all parties than the PPF. Any arrangement would need to have the support of scheme trustees, TPR and the PPF and the evidentiary threshold for insolvency risk would need to be placed on a firm statutory footing to avoid lengthy and costly legal disputes.

92. **The Regulated Apportionment Arrangement (RAA) is a means of negotiating an outcome for scheme members that is better than the PPF in instances where a sponsoring employer is in mortal danger. When agreed, it can produce results that are better for pensioners, better for employers and better for the PPF than insolvency. It is, however, very rarely used, and the process includes potentially harmful delays. It is an emergency measure, but it does not operate at an emergency pace.**

149 TPR guidance, March 2010
150 The Pensions Regulator, Regulated apportionment arrangements (RAAs) and employer insolvency, August 2010
151 Q3319 [Chris Martin]
152 Association of Pension Lawyers (PPF0071)
153 Association of Pension Lawyers (PPF0071)
154 Q3322 [Chris Martin]. The 12 month requirement is set out in section 7A of the Occupational Pension Schemes (Employer Debt) Regulations 2005.

93. ***We recommend that in its forthcoming Green Paper the Government consult on:***

- ***reducing the interval, currently 28 days, betweeen TPR issuing a warning notice of an impending RAA and issuing a final notice; and***
- ***relaxing the requirement for insolvency to be inevitable within 12 months for an RAA to be approved.***

We further recommend that TPR guidance be amended to encourage its involvement at an earlier stage in the formulation of RAA proposals in order to facilitate a more iterative approach.

Greater flexibility

The case for reform

94. The Pensions Institute argued that trustees do not have enough scope to consider middle-way options that fall short of the full promise initially made to members, but would be preferable to PPF compensation terms. The Pensions Institute asserted that the "worst-case scenario" of a scheme entering the PPF could be averted if the approach to managing pensions changed to one that was prepared for many more schemes to pay less than full benefits on a planned and co-ordinated basis. This could free an employer from the burden of its pension fund, whilst avoiding insolvency, thereby creating extra value which could be shared with the members.[155]

95. The pension investment manager Cardano argued in favour of trustees having flexibility to restructure unaffordable pension scheme benefits before the sponsor becomes insolvent:

> Inevitably, many businesses will not be able to meet their pensions obligations. Therefore we need more flexibility to deal with these situations. Current law only provides one option to a business that cannot afford its pension promises – go bankrupt and pass the pension fund to the PPF. This is clearly a 'lose-lose' as the members take a heavy haircut to their pensions and shareholders suffer a complete loss of equity. It is not currently possible for trustees to renegotiate the pension contract before a bankruptcy in order to salvage value on behalf of their members. This must change. If permitted by law, 'pension fund restructuring' could provide members with a better pension outcome than the statutory PPF route and give additional breathing space for the company to find a solution that potentially could save thousands of jobs.[156]

Likewise, the pensions consultancy Mercer favoured greater flexibility. It was among several witnesses to argue that the reduction of pension benefits to increase the viability of employers was a means of addressing inter-generational fairness,[157] an issue we considered in a recent report.[158] Young people in private sector employment were effectively subsidising generous DB pensions to which they did not themselves have access.

155 The Pensions Institute, The greatest good for the greatest number: an examination of early intervention strategies for trustees and sponsoring employers of stressed defined benefit schemes, December 2015

156 Cardano (PPF0061)

157 Mercer Ltd (PPF0064). See also Association of Consulting Actuaries (PPF0039)

158 Work and Pensions Committee, Third Report of Session 2016–17, Intergenerational Fairness, HC 59

Deferred pay

96. Professor David Blake of the Pensions Institute told us that over time increased regulations have changed pension promises originally made on a "best-efforts" basis into guarantees. A return to the original model, he said would create scope for greater flexibility.[159] Steve Webb, however, told us that members of DB schemes have a legal claim to their pension:

> in the UK these promises are regarded as an inalienable property right for as long as the pension scheme is in operation.[160]

Norma Cohen, a former journalist at the *Financial Times*, concurred, adding that any retrospective claw-back of the property of former employees would almost certainly bring a legal challenge.[161]

97. We repeatedly heard that pensions were "deferred pay", remuneration for past work.[162] Current and former employees clearly expected pension promises to be honoured and may well have planned accordingly.[163] Samuel Pickford, an actuary working in the pensions industry, likened breaking or reducing past promises to asking an employee to refund to their employer part of the salary they received many years ago:

> Clawing back salaries earned in the past would be inconceivable, and therefore so should the idea of reducing or scaling back the accrued pension that was earned by employees as deferred remuneration in the same period.[164]

Likewise, Professor Paul Sweeting, Professor of Actuarial Science at the University of Kent, said:

> it would be unthinkable to ask former employees to pay back past salaries to a struggling former employer, but this is essentially what cutting accrued pensions amounts to.[165]

98. The Minister concurred with these sentiments:

> to me a defined-benefit scheme is fundamentally not negotiable, inasmuch that it is an obligation of a company in the same way that salaries are.[166]

The trustees we heard from agreed that DB pensions were deferred pay. They also told us, however, that some flexibility in benefits would be justified where it was in the interests of scheme members.[167]

159 Q3189 [Professor David Blake]
160 Steve Webb (PPF0002)
161 Norma Cohen (PPF0112)
162 Samuel Pickford (PPF0049); Qq3322–3323 [Janice Turner and Andrew Bradshaw]
163 Qq3322–3324 [Janice Turner and Andrew Bradshaw]
164 Samuel Pickford (PPF0049)
165 Professor Paul Sweeting (PPF0111)
166 Q3475 [Richard Harrington MP]
167 Qq3322–3324 [Chris Martin, Janice Turner and Andrew Bradshaw]

Indexation

99. Overwhelmingly, the element of member benefits we heard most about in the context of adding flexibility was indexation. Indexation typically comprises an annual uprating of pension benefits, usually linked to a measure of inflation. As annual increases are compounded, small differences in the uprating measure used by different schemes could have a significant bearing on scheme liabilities.[168] The Retail Price Index (RPI) used to be the main measure of inflation and the typical benchmark for pension indexation. It has, however, been superseded by the Consumer Price Index (CPI) as the Government's measure of inflation in official statistics. The CPI is also used to uprate pensions in payment by the PPF.[169]

100. CPI inflation tends to be lower than RPI inflation. Historically, annual CPI growth has been around 0.7 percentage points lower than RPI, though the Office for Budget Responsibility expects the gap to widen to around 1.2 percentage points in future.[170] DB schemes that have latitude within their rules to change the inflation benchmark have generally taken the opportunity to adopt CPI. Steve Webb told us:

> Any pension scheme that says, 'Uprate benefits in line with inflation or with the Government statutory measure' or whatever, they are all using CPI.[171]

101. While many schemes are free to switch to CPI, others are bound by the wording in their rules to use RPI.[172] Whether schemes now had the flexibility to use CPI indexation was tantamount to a "small print lottery".[173] Other indexation requirements placed even greater strain on the sponsor. Adnams PLC told us that its scheme increases pension rights accrued before 1999 by a minimum 4 per cent each year, double the Bank of England's target rate of CPI inflation. Honouring that promise was consuming about 15% of the company's profits.[174]

102. Switching to CPI indexation would improve the affordability of pension schemes for sponsors. Hymans Robertson, a pensions consultancy, told us that the UK's combined DB deficit could be reduced by £175bn if all schemes could switch from RPI to CPI for pension increases and revaluation. This would, however, result in an irreversible reduction in value of benefits of an average DB scheme member by £20,000 over their retirement.[175]

168 Q3476 [Richard Harrington MP]
169 PPF payments relating to pensionable service from 5 April 1997 rise in line CPI with inflation each year, subject to a maximum of 2.5 per cent a year. Payments relating to service before that date do not increase.
170 Office for Budget Responsibility, Working paper No. 2: The long-run difference between RPI and CPI inflation, Ruth Miller, November 2011.
171 Q3149 [Steve Webb]
172 Hymans Robertson (PPF0084)
173 EEF (PPF0072). See also Willis Towers Watson (PPF0102).
174 Qq3259–3260 [Stephen Pugh]; Adnams PLC (PPF0031)
175 Hymans Robertson (PPF0084)

Statutory employer override of scheme indexation rules

103. Employer representative bodies called for a statutory override of scheme rules to allow companies to switch to CPI indexation of DB pensions. The CBI argued that CPI should be used as the "modern" inflation benchmark and the one used by the Government as its official measure.[176] EEF similarly noted that the "practice of using CPI as the main measure of inflation is now well embedded in other spheres".[177]

104. Other witnesses, however, cautioned against giving employers such powers. Janice Turner said:

> We know that there are pension schemes where companies are doing incredibly well and yet companies still want to close the pension schemes. If there was a power to reduce these liabilities, these promises, then to what degree are companies going to take advantage of that? That is a real worry.[178]

Similarly Broadstone, a pensions consultancy, suggested that allowing the unilateral amendment of past service benefits by the employer would be "the thin-end of the wedge and result in a longer term devaluing of member's benefits and contingent benefits".[179] Unite, the trade union, argued that companies would exploit such a change to increase profits rather than improve pensions.[180]

105. Steve Webb told us that as Pensions Minister he considered whether to create a statutory override but, while he acknowledged that scheme indexation was "a bit of a lottery", ultimately decided against it:

> I think that has to be a last resort, to say, "We are a bit broke, guys. We are just going to break our promises", because once you do it for RPI, you do it for everything else. It is a thin end of the wedge kind of thing.[181]

Empowering trustees to intervene in the interests of members

106. Broadstone expressed "sympathy" with employers disadvantaged by the drafting schemes rules but said the first concern should be for members "that have accrued benefits with a promise of RPI protection".[182] It is not clear, however, to what extent members would have accrued rights cognisant of the benefit of RPI indexation relative to CPI indexation. In arguing that enabling CPI indexation in private-sector DB schemes "should at least be on the table" as a means of addressing intergenerational unfairness, Paul Johnson, Director of the think tank the Institute of Fiscal Studies (IFS), noted that public service pension rights had been switched to CPI "entirely retrospectively".[183] He argued that "nothing is forever in public policy":

> We generally think it is reasonable for governments to change rates of income tax and VAT even if we have made our choices on the assumption

176 CBI Policy Briefing, Long-term focus: addressing DB pensions sustainability, 2016
177 EEF (PPF0072)
178 Qq3322–3323 [Janice Turner]
179 Broadstone (PPF0076)
180 Unite (PPF0093)
181 Q3149 [Steve Webb]
182 Broadstone (PPF0076)
183 Paul Johnson, "Time to break promises to pensioners?", BBC News, 4 October 2016

> they will stay much the same. State pension ages are rising, and nobody seriously thinks you can increase them only with 50 years' notice to ensure nobody currently working will be affected.[184]

107. The Communication Workers Union (CWU) opposed a blanket change from RPI to CPI but accepted that in certain cases it may be allowable as the only option to stave off scheme failure:

> where such a measure was deemed essential to keep a scheme open to future accrual having exhausted all other avenues, we accept that this would be preferable to scheme closure.[185]

Malcolm Booth, Chief Executive Officer of the National Federation of Occupational Pensioners, concurred:

> in a situation where, 'move to CPI or go to PPF' is a straight choice, I do not think that is a choice. That is a case of go to CPI, and how that is managed is the key factor.[186]

108. Other witnesses suggested that conditional indexation would enhance the sustainability of some schemes.[187] Struggling schemes could temporarily stop paying pension increases, or pay lower increases, to help them get back on track. These increases would be paid if and when scheme funding and sponsor performance improved. This approach has been used in the Netherlands in an attempt to encourage pension schemes to take on investment risk.[188] The CWU opposed conditional indexation and noted that if a policy to allow it was introduced it would need to be "accompanied by special conditions to prevent employers from abusing the rules".[189] Hymans Robertson suggested that such conditions would need to align the interests of the business and scheme members. For example, the employer might be restricted in paying dividends in the interim period.[190]

109. Andrew Bradshaw told us that there should be more flexibility to allow trustees, companies and the regulator—possibly in consultation with members—to examine the means of reducing scheme liabilities outside the PPF. He said that this should only be as a last resort, after all alternative options had been thoroughly investigated.[191] Chris Martin argued that trustees should be empowered to change member benefits if they thought it was in the best interests of the scheme members:

> Some of these pensions were promised 40, 50, 60 years ago in a different time, but if the trustee forms the view that it is in the best interests of the generality of the members to change some of those benefits, then we ought to be able to do it and we should be empowered to do it in a way that is going to improve the outcome rather than just destroy value.[192]

184 Paul Johnson, "Time to break promises to pensioners?", BBC News, 4 October 2016
185 Communication Workers Union (PPF0075)
186 Q3352 [Malcolm Booth]
187 Aon (PPF0062); Hymans Robertson (PPF0084)
188 Professor Paul Sweeting (PPF0111)
189 Communication Workers Union (PPF0075)
190 Hymans Robertson (PPF0084)
191 Qq3323–3324 [Andrew Bradshaw]
192 Q3322 [Chris Martin]

110. **Pension promises are just that. Any change to the terms of them should not be taken lightly. In circumstances where an adjustment to the scheme rules would make the scheme substantially more sustainable, however, a reduction in benefits could well be in the interests of members. Some schemes have more generous indexation rules than others more by accident than design, and indexation by CPI rather than RPI is certainly preferable to corporate insolvency and a pension scheme in the PPF. Trustees should be empowered to take decisions in the long term interests of scheme members.**

111. ***We recommend that in its forthcoming Green Paper the Government consult on means of permitting trustees to propose changes to scheme indexation rules in the interests of members. These proposals should be subject to regulatory approval but the presumption should be in favour of change. This measure should not only facilitate permanent changes to indexation rules; in many cases a conditional arrangement, whereby the scheme and employer have some breathing space to overcome difficulties, but then revert to more generous uprating when good times return, may be most appropriate.***

Compulsory wind-up of schemes

112. If a stressed scheme's trustees and sponsor are unable to put a funding solution in place to deliver full benefits, both parties may decide that the best available solution is to wind up the scheme. In such circumstances the scheme ceases to exist and its assets are either transferred to another scheme or used to buy annuities to provide member benefits.[193] Where a scheme is in deficit at the point of wind-up, this triggers an enforceable debt under section 75 of the Pensions Act 1995 which obliges the sponsor to make good the shortfall.[194]

113. Andrew Bradshaw told us that some trust deeds give trustees the unilateral power to wind the scheme up. They may choose to use this power "if there is a change of ownership of the company or if the trustees are concerned about the level of funding". This, he told us, gives trustees "significant leverage (and potentially a veto) over a proposed corporate transaction".[195] TPR also has the power, under section 11 of Pensions Act 1995, to force the wind up of a scheme if it is satisfied that such an outcome is "necessary in order to protect the interests of the generality of the members of the scheme" and cannot be achieved by other means.[196] TPR has not tended to use this power.[197]

114. In severe cases of scheme stress—characterised by large and growing deficits, a weak sponsor and the lack of a sustainable plan to meet pension promises in full—it may be inevitable that a scheme will end up in the PPF. The insolvency event needed to trigger PPF entry may not yet, however, have occurred. A "zombie scheme" drifts on with no prospect of an improvement in the funding position but with a high likelihood of further deterioration. Steve Webb cautioned that schemes in a zombie state are incentivised to take risks that could make the situation worse:

193 Pension administrators: wind up a scheme, Gov.uk
194 Pensions Act 1995 s75
195 Association of Professional Pension Trustees (PPF0128)
196 Pensions Act 1995 s11
197 Q3210 [Rosalind Connor]. The Employer Covenant Work Group (PPF0038) did not think TPR had ever used the power.

> One scenario is that trustees judge that their only chance of dealing with the deficit is to go for high-risk but potentially high-return investments (akin to 'betting the fund on the 3.30 at Haydock'). Whilst this might have a small chance of success, the downside risk is that the deficit could balloon, making the eventual hit on the PPF that much greater.[198]

115. The Employer Covenant Working Group suggested that TPR's wind-up power could be extended to be used in broader circumstances than just the interests of the generality of members. These might include circumstances where the PPF was being placed at greater risk by allowing a scheme to drift.[199] The PPF suggested that TPR could have a new and broad power to require the wind-up of pension schemes, triggered at the request of either the trustees or PPF.[200] Alan Rubenstein said the trustees or, in extremis, the PPF might approach TPR to say:

> 'Look, we have been locked in negotiations with this employer for ages. They will not budge. We need your help, and in extremis, we need you to order the winding up of this pension scheme because we can't see how, under these conditions, it can ever deliver the pensions it is promising to people'.[201]

116. Steve Webb said that a compulsory wind-up could be the least bad option in certain cases where an insolvency event has not yet occurred but there is no prospect of the funding position improving to deliver a better-than-PPF outcome:

> Let's say you have a scheme that everybody knows the day is going to come when it cannot meet its liabilities. Do you just let it run on, potentially letting the deficit get worse, so that the hit on the PPF is worse? Who pays for that, every other sponsoring employer paying the PPF levy, or do you end the pain now, force a wind-up of the scheme and say, "Look, we all know this is never going to get any better. We will put them in the PPF now before it gets any worse"?

He cautioned that "forcing the pace" on scheme resolution in this way would be contentious, as in the absence of a clear failure event such as insolvency there may still be those who argue that the situation could have eventually improved. He concluded, however, that "but it is probably in the public interest because otherwise you just take a bigger hit on the PPF."[202]

117. ***We recommend the Government broaden TPR's power under section 11 of the Pensions Act 1995 to order the wind-up of a pension scheme. TPR should be permitted to wind-up a scheme when it is satisfied that this would be in the best interests of the PPF and its levy payers, and that no alternative option is realistically available to deliver a better outcome for members.***

198 Steve Webb (PPF0002)
199 Employer Covenant Working Group (PPF0038)
200 Pension Protection Fund (PPF0088)
201 Q3391 [Alan Rubenstein]
202 Q3172 [Steve Webb]

5 Anti-avoidance

The PPF lifeboat

118. In previous sections we examined how prompt action may prevent the funding difficulties of individual pension schemes developing into a terminal crisis. Pensions legislation cannot, however, prevent insolvency in an unviable business.[203] In the worst-case scenario of company insolvency, the employer covenant fails and the scheme passes to the PPF. The PPF then conducts an assessment of whether it should permanently absorb the scheme or whether an alternative outcome would secure better benefits for members.

119. For members of a scheme that enters the PPF the transfer process and reduced pension they receive can cause uncertainty and distress. This was apparent in several submissions we received from members of the AEA Technology Pension Scheme. The scheme was set up in 1996 following the privatisation of the UK Atomic Energy Authority and many people transferred their accrued rights into the new AEA Technology DB scheme. AEA Technology went into administration in 2012 and the pension scheme transferred to the PPF in July 2016. Members' pensions are now based on PPF rules, which means they are getting less than they expected and limited inflation protection.[204]

120. The current system for pension scheme resolution is, however, a significant improvement on the situation before the Pensions Act 2004. Baroness Drake wrote:

> Prior to 2004, if a sponsoring employer became insolvent or a company chose to wind up their pension scheme, leaving insufficient funds to cover the pension promises, members of the scheme simply received less than they were promised, and in many cases little or no pension at all.[205]

Moral hazard and TPR's anti-avoidance powers

121. The existence of the PPF creates a "moral hazard". Moral hazard arises when a contract or financial arrangement creates incentives for the parties involved to behave against the interest of others. It is a common problem in insurance, whereby the insured may be careless or take greater risks because it is protected. In the case of DB pensions, an employer may neglect a pension scheme, or even simply seek to dump it, safe in the knowledge that the PPF is there to bail it out. This can be particularly concerning when the sponsoring employer is a subsidiary of a wider corporate group. The subsidiary, burdened by pension liabilities, can be allowed to wither and fail, while the parent group can continue to thrive.

122. TPR has a vital role in protecting both the PPF and pension scheme members from employers seeking to avoid their obligations. Its anti-avoidance powers, set out in sections 28–56 of Pensions Act 2004, are intended to both discourage sponsors from failing to meet their obligations and, in the event of insolvency, be the means of recovering funds from the former sponsor and its owners. These powers comprise:

203 Association of Pension Lawyers (PPF0071)

204 Prospect (PPF0020); David Standerwick (PPF0027); Dr Andrew Turner (PPF0041); Sylvia Colgate (PPF0087); Professor Michael Hutchings (PPF0089); Anthony Reading (PPF0101); WD Griffiths (PPF0118)

205 Baroness Jeannie Drake (PPF0125)

- Contribution Notice (CN): a demand for a specified sum of money where there has been a deliberate attempt to avoid a statutory debt.

- Financial Support Direction (FSD): a requirement for financial support to be put in place for an underfunded scheme where the sponsoring employer was either a service company or was insufficiently resourced at the relevant time. An FSD can extend beyond the sponsoring employer into a wider corporate group.[206]

123. When TPR decides to use its anti-avoidance powers it undertakes what is known as enforcement action. Its first step is to issue warning notices (WNs) to the parties concerned setting out its case against them. A CN can relate to acts up to six years prior to the issuing of a WN. FSDs can be issued to entities who were connected to the scheme sponsor within the two years before the issuing of a WN, but there is no time limit on how far back TPR can look in respect of acts or events that took place during that association.[207] WNs were issued to the former owners of BHS on 2 November 2016.[208] The WN issued to Sir Philip Green set out evidence to support the use of both a CN and a FSD.[209] The next stage in the process is a period in which the recipients of a WN can respond. If TPR wishes to use its anti-avoidance powers in the light of those responses, that action must be approved by an independent Determinations Panel, which considers evidence and representations from both sides before deciding whether to issue CNs and FSDs. Parties subject to enforcement action can approach TPR with settlement offers at any stage. TPR has "yet to receive a sufficiently credible and comprehensive offer in respect of the BHS schemes".[210]

Adequacy of anti-avoidance measures

124. Several witnesses said they thought TPR's existing anti-avoidance powers were sufficient. For example, APL cautioned that extension of the powers could "hamper business" and a lack of use of existing powers did not imply they were inadequate:

> the effect of the powers is largely preventative as opposed to curative: the risk of a sanction has largely caused sponsors and other entities involved in corporate activity to pay much closer attention to the position of the pension scheme in the context of corporate activity and to consider the provision of support/mitigation where the scheme may otherwise be disadvantaged. In this way, the existence of the powers has provided the improved protection for schemes that we understand they were intended to achieve.[211]

Others were concerned that TPR did not use its powers as effectively as it could. The PPF called for TPR's anti-avoidance processes and powers to be reviewed "to ensure effective targeting and much faster implementation."[212]

206 The Pensions Regulator (PPF0091)
207 The Pensions Regulator (PPF0004)
208 The Pensions Regulator, BHS: TPR launches enforcement action, PN16–51, 2 November 2016. Warning Notices were issued to Sir Philip Green, Taveta Investments Limited, Taveta Investments (No. 2) Limited, Dominic Chappell and Retail Acquisitions Limited.
209 TPR press notice PN16–51, BHS: TPR launches enforcement action, Wednesday 2 November 2016
210 TPR press notice PN16–51, BHS: TPR launches enforcement action, Wednesday 2 November 2016
211 Association of Pension Lawyers (PPF0071)
212 Pension Protection Fund (PPF0088)

Timescales

125. TPR said that enforcement action can be complex and take a significant period of time. For example, recipients of WNs were given several months to make representations before any Determinations Panel hearing.[213] AlixPartners, a consultancy, said the process can "take months or years to run its course". That meant TPR was "unable to use its powers promptly or proactively even when the situation is time critical".[214] Some cases can be extraordinarily protracted. A final hearing in the case of the Box Clever pension scheme is due before the Upper Tribunal in early 2018. The Determinations Panel ruled in December 2011 that a FSD should be issued to ITV, which has repeatedly appealed that decision. Box Clever itself, which was a joint venture between ITV and another television company, went insolvent in 2003.[215]

Infrequent use of powers

126. TPR has made sparing use of its anti-avoidance powers to recover money from sponsors that have failed to support DB schemes. In May 2016 it told us that, since its inception in 2005, it had issued only 16 WNs. The Determinations Panel had exercised the CN power three times and the FSD power four times. In several cases where a WN was issued, settlement was reached before enforcement powers were exercised.[216] In light of these figures, Unison told us:

> Given that TPR has been in existence for over 10 years and that over 800 schemes have transferred to the PPF since its creation in April 2005, this would suggest a huge reluctance to fully utilise its powers. Why this is so is anyone's guess.[217]

The Association of Consulting Actuaries said:

> TPR has seldom used those of its powers that would directly impact company decisions, which has perhaps led many to view that its powers are illusory (for example, because the hurdles to cross before they can be used are too onerous). It is possible that the threat of using them has always proved sufficient, but that is not obvious to many in the industry.[218]

127. The APL suggested that TPR may have been inhibited from using its anti-avoidance powers due to concerns about whether cases would meet the legal test for their use. The APL suggested that "if the Regulator were to 'test' its powers more readily, this would enable precedents to be established to provide more certainty".[219]

128. We heard that when TPR considers use of anti-avoidance powers, it does not always explain its thinking. From time to time TPR uses its power under section 89 of the Pension Act 2004 to publish Regulatory Intervention Reports, which provide information

213 The Pensions Regulator (PPF0004)
214 AlixPartners (PPF0052)
215 The Pensions Regulator, Determination Notice: The Box Clever Group Pension Scheme, December 2011; HM Courts & Tribunals Service, Upper Tribunal (Tax and Chancery) financial services hearings and register, updated 2 December 2016
216 The Pensions Regulator (PPF0004)
217 Unison (PPF0074)
218 Association of Consulting Actuaries (PPF0039)
219 Association of Pension Lawyers (PPF0071)

on instances where they have exercised or considered exercising their powers.[220] While the Association of Consulting Actuaries welcomed reports on instances when TPR had used enforcement action, it told us that clarification of situations where TPR opted not to use its powers would also be helpful.[221]

Clearance

129. TPR offers a clearance procedure to any sponsoring employer or connected entity that wishes to confirm that it will not be subject to either a CN or FSD following a proposed transaction which may be "materially detrimental" to a DB pension scheme. This could be a corporate transaction such as a merger or sale of the sponsoring company, or an agreement to weaken the employer's covenant toward a scheme through a restructuring. Clearance is voluntary and the onus is on the applicant to approach TPR.

A voluntary and rarely used process

130. Clearance applications have declined substantially, falling from 263 in 2005–06 to just 9 in 2015–16:

Figure 6: Clearance cases relating to corporate transactions

Financial year	Clearance applications
2005-06	263
2006-07	216
2007-08	152
2008-09	112
2009-10	83
2010-11	52
2011-12	34
2012-13	41
2013-14	15
2014-15	14
2015-16	9

Source: tPR FOI response 2016–02–10

TPR has not carried out "any analysis or research into potential reasons for clearance application numbers reducing" and said it had no plans to do so.[222]

220 Regulatory Intervention reports, The Pensions Regulator website
221 Association of Consulting Actuaries (PPF0039)
222 The Pensions Regulator, FOI reponse 2016–02–10 Numbers of cases of clearance relating to corporate transactions, 10 February 2016.

131. The fall in clearance applications could indicate greater awareness among professional advisers of the circumstances in which TPR would use its anti-avoidance powers.[223] Rosalind Connor told us, however, that the opposite was true:

> If the regulator was encouraging us or there was some other way of encouraging people to go for clearance more, and perhaps the regulator published its clearance results on an anonymised basis, you would get a lot more understanding of what it was that the regulator might do. One of the problems with the moral hazard powers is that people don't know when they might be used, which means that some people are overly scared and a lot of people are not scared enough.[224]

132. We also heard that the clearance process could be "cumbersome". A particular problem identified by Rosalind Connor was that TPR would not issue clearance while it was investigating the actions of the vendor:

> That is really irritating because, if I was buying a business where I knew the regulator was looking at the old owners and was angry with them about things they had done, I would not buy that business unless I got clearance. I have not done anything that might require me to get clearance, but you will not find a purchaser who will take it unless they can be guaranteed a clear hand, so that means the businesses where there was trouble and mismanagement in the past cannot be saved.[225]

133. In order to secure clearance an applicant may have to demonstrate to TPR that the transaction is not materially detrimental to the pension scheme. They may therefore have to make a contribution to the scheme or provide some form of ongoing support. Baroness Drake told us that potential clearance applicants may simply prefer to "wait until the problem manifests itself downstream".[226] TPR acknowledged that employers may increasingly be opting to take the risk of enforcement action rather than voluntarily seeking clearance:

> TPR's anti-avoidance powers are designed to operate retrospectively to seek redress. While they act as a powerful deterrent, they cannot prevent avoidance activity on the part of employers prepared to take the risk. At present, employers can apply to TPR for clearance, but this is a voluntary process for the benefit of the applicant.[227]

134. BHS provides a case study of the failure to secure clearance. In 2014 its then parent company, Taveta, proposed to restructure the business and its pension schemes to make the scheme's liabilities more manageable. This would have reduced member benefits but to a level better than PPF compensation.[228] In order to secure regulatory approval for the restructuring, Taveta submitted a draft clearance application to TPR, including a request for an RAA. In the wake of TPR's extensive requests for information to address

223 Qq3209 [Baroness Drake], 3389 [Alan Rubenstein]
224 Qq3217–3218 [Rosalind Connor]
225 Q3218 [Rosalind Connor]
226 Q3209 [Baroness Drake]
227 The Pensions Regulator (PPF0091])
228 This proposal was known as Project Thor.

its concerns about avoidance in respect of the proposal, Sir Philip Green decided not to proceed with this option. Instead he sold BHS for £1 in March 2015. He was not obliged to seek clearance for that transaction and he did not do so.

Mandatory clearance

135. The National Federation of Occupational Pensioners called for mandatory clearance before any major financial reorganisation, takeover or sale.[229] TPR suggested that clearance might be made mandatory where a corporate action significantly weakens the scheme sponsor and the scheme is not sufficiently funded.[230] TPR added that this should incorporate not only sales and purchases of businesses but "corporate activity such as dividend payments, change of control, share buy-backs and loans" which weakened the employer covenant.[231] The consultancy firm Willis Towers Watson cautioned however that while such actions can be "addressed with the benefit of hindsight" using anti-avoidance powers, it was difficult to see how they could be subject to advance clearance in practice.[232]

136. We heard concerns that compulsory clearance could disproportionately hinder business activity, particularly if TPR did not have appropriate capacity to keep pace with commercial timescales. Janice Turner told us that mandatory clearance would place a "very heavy burden" on TPR, which would need to "operate at the same speed that is required to carry on these transactions", lest it "place in doubt some of these transactions, which are otherwise extremely sensible transactions for the future benefit of the enterprise."[233] Slaughter and May, a law firm, told us that draft clearance applications were typically submitted up to six weeks before the proposed transaction, a timescale which was "unlikely to be practical" in instances involving a distressed employer.[234]

137. Lesley Titcomb told us that a strict timetable for the completion of clearance would need to apply so that TPR:

> could not hold things up for ever and ever […] gumming up the entire works of British industry in terms of corporate transaction.[235]

Ms Titcomb said that increased demand on TPR's clearance process would have "resource implications" for the organisation, but that demands on retrospective anti-avoidance work would be reduced.[236] Granting TPR the power to block a corporate transaction was "superficially attractive" but the situations in which it applied would need to be "very tightly defined".[237]

138. Steve Webb told us that mergers and acquisitions should be a priority area for timelier TPR involvement, but urged focus on deals involving companies above a fixed ratio "a certain size of debt to a certain size of company."[238] Chris Martin told us that it would be

229 National Federation of Occupational Pensioners (PPF0010)
230 The Pensions Regulator (PPF0091)
231 The Pensions Regulator (PPF0091)
232 Willis Towers Watson (PPF0102)
233 Q3311 [Janice Turner]
234 Slaughter and May (PPF0080)
235 Q3466 [Lesley Titcomb]
236 Q3466 [Lesley Titcomb]
237 Q3466 [Lesley Titcomb]
238 Q3158 [Steve Webb]

"incredibly helpful" if there were an obligation on prospective purchasers of a sponsoring company with a stressed scheme to set out their plans to support the scheme and resolve the deficit within a prescribed timescale prior to completion.[239]

139. Lady Barbara Judge, Chairman of the Institute of Directors and former Chair of the PPF, pulled together these two suggestions. She proposed that in the light of the BHS scandal, TPR should been given:

> a binding veto over merger and acquisition activity, in firms of a certain size, where a sale does not come complete with a clear and obvious statement of how any pension fund deficit will be met in the future.

This veto would be limited to transactions above a minimum threshold relating, for example, to the turnover of the company to be acquired, or the size of the pension scheme. The prospective purchaser would be required to satisfy TPR that it has adequate understanding of, and funding plans for, the sponsored scheme before approval would be granted. She added that TPR would however need to operate to strict timelines to keep pace with "the speed of merger and acquisition activity."[240]

140. **Clearance has the clear benefit of enabling TPR to tackle potential moral hazard implications of corporate transactions head-on rather than after the event, while providing comfort and certainty to the scheme members and sponsoring firm. Clearance is far preferable to the drawn-out—and resource-intensive—legal process of enforcement action. It is, however, voluntary and employers are increasingly skipping it: there were 263 applications in 2005–06 but just nine in 2015–16. The incentives to seek clearance are currently weak. Some unscrupulous sponsors may well be calculating that they are better off risking a protracted anti-avoidance battle than coming to an immediate pension settlement.**

141. ***We recommend that in its forthcoming Green Paper the Government consult on proposals to require advance clearance from TPR for certain corporate transactions that could be materially detrimental to the funding position of a DB scheme. The circumstances in which clearance was compulsory would have to be narrow to prevent a disproportionate effect on normal economic activity. They might include the sale or merger of a scheme sponsor where the pension deficit is higher than a fixed proportion of the value of the company. It is also reasonable to expect any prospective purchaser to have a credible plan for tackling a substantial pension deficit.***

Punitive fines as a nuclear deterrent

142. A compulsory clearance system risks being either so broad as to act as a brake on business activity, or so narrow as to miss the very transactions it intends to prevent. Employers do not have incentives to seek clearance voluntarily, however, because the risk of later enforcement activity may be preferable to an up-front arrangement which is not materially detrimental to the pension scheme. This effect is reinforced by the nature of TPR's anti-avoidance regime. Alan Rubenstein told us that it "essentially replaces the

239 Q3311 [Chris Martin]
240 Lady Barbara Judge CBE (PPF0132)

money that is missing":[241] after a lengthy and complex process the most TPR might hope to extract from an employer is the amount it ought to have contributed to the pension scheme in the first place.

143. Alan Rubenstein suggested TPR be able to add a punitive fine element to a CN or FSD. This, he said, would encourage employers to seek clearance where they might otherwise be subject to anti-avoidance powers:

> good companies, as ever, would do the right thing. It is just to encourage those who are getting close to the line or are perhaps inclined to try to transgress upon it, to nudge them in the direction of seeking clearance before they go ahead.

This, he said, was "a better approach than one that would require pretty much every single transaction to have to go to the Regulator". If in doubt, employers would seek clearance.[242]

144. Lesley Titcomb said the fine "would have to be quite large in order to constitute a deterrent".[243] Alan Rubenstein suggested that the fine element:

> should either be up to the same amount as the contribution notice or warning notice, effectively doubling it, or possibly up to twice the amount.[244]

While this may appear draconian, he said the "intention would be that one would not really need it".[245] The size of the potential fine would deter employers from avoiding their pension responsibilities.

145. **Under TPR's existing anti-avoidance powers, an employer seeking to avoid its responsibilities to a pension scheme may well take a punt on risking enforcement action. TPR has a mixed record, resolution may take several years, and the most TPR might hope to recover is the amount of support the employer should have provided to the scheme in the first place. In the meantime, the pension scheme members are left in limbo.**

146. ***We recommend that in its forthcoming Green Paper the Government consult on giving TPR powers to add punitive fines to Contribution Notices and Financial Support Directions. These fines would have to be set at a high level to ensure they incentivised sponsors to properly fund pension schemes and seek clearance for corporate transactions which may be to a scheme's detriment. We recommend that fines that could treble the original demand be considered. The intention would be that such fines would not need to be imposed: they would act as a nuclear deterrent to avoidance.***

241 Q3389 [Alan Rubenstein]
242 Q3389 [Alan Rubenstein]
243 Q3470 [Lesley Titcomb]
244 Q3390 [Alan Rubenstein]
245 Q3390 [Alan Rubenstein]

6 Preventing another BHS

147. Though BHS formed the backdrop to our inquiry, we have not restricted our report to measures relevant to that case. The BHS pension schemes would not have been an obvious candidate for consolidation in an aggregator fund for small schemes and we do not think BHS was disadvantaged by its PPF levy payments. Similarly, we have stuck to our remit and not sought to address the broader problems of decision-making, accountability and transparency in large private companies, evident in BHS. Nevertheless, a test we applied to many potential policy changes that were proposed was whether they would reduce the chances of another pension scheme collapsing in the manner of BHS.

148. There were warning signs to TPR about the nature of the BHS pension schemes. The deficit recovery plan agreed after the 2009 valuation was 12.5 years long, with employer contributions concentrated towards the end of the period, and TPR was concerned about optimistic assumptions. Under our proposals, TPR may have intervened more actively, requiring concessions from Sir Philip Green, bringing forward the 2012 valuation and monitoring the scheme more closely. It certainly would have taken action during the two years from the start of a valuation that ended with a 23 year recovery plan borne of a refusal on the part of Sir Philip to negotiate the necessary contributions.

149. BHS did not have a positive relationship with its trustees. The sponsor repeatedly resisted requests for information and kept the trustees in the dark about the strength of the covenant and the terms of the company's sale. Under our recommendation, the trustees would have been able to demand timely information. Through scheme restructuring facilitated by a streamlined RAA process or adjustments to indexation, the trustees may have been able to make the schemes more sustainable while securing better than PPF outcomes for members before the company became unrescuable. Scheme members may also have opted independently to take their pensions as lump sums, to their benefit and that of the schemes, under more flexible rules.

150. The proposed £1 disposal of BHS would have met any reasonable criteria to be subject to mandatory clearance, which it would surely not have passed. BHS had a giant pension deficit far higher than the value of the company. The proposed buyer, Dominic Chappell, presented the trustees with no plan for the pension schemes and had no credible means of financing one. TPR would not have sanctioned the sale unless Sir Philip adequately compensated the schemes for the material detriment they would suffer from the sale.

151. Sir Philip would have faced far stronger incentives to "sort" the pension scheme during his ownership owing to the nuclear deterrent of a punitive anti-avoidance fine. This could potentially have trebled the amount TPR could have demanded of him in a Warning Notice. With that possibility, we doubt formal enforcement action would ever have been required.

152. It will, of course, be of no comfort to the 20,000 BHS pensioners facing cuts to their promised pensions, but had just some of the measures we propose been in place then they may never have ended up in that situation.

Conclusions and recommendations

Promoting well-run schemes

1. Communication is fundamental to the trustee-sponsor relationship which is at the heart of a well-run pension scheme. Uncooperative sponsors can keep trustees in the dark about information crucial to them carrying out their duties effectively. We recommend the Government consult in its forthcoming Green Paper on proposals to give trustees powers to demand timely information from sponsors. *We recommend the Government consult in its forthcoming Green Paper on proposals to give trustees powers to demand timely information from sponsors.* (Paragraph 13)

2. A well governed pension scheme is at less risk of falling into the PPF. Accounting for governance in the PPF levy could incentivise the reduction of governance risk. *We recommend that, as part of its forthcoming review of its levy rules for the three years from 2018–19, the PPF re-examine how the levy framework could incentivise schemes to improve governance. Any such good governance discount would need to be based on objective and transparent criteria that are demonstrably associated with positive outcomes for members and that complement the levy model's calculation of insolvency risk.* (Paragraph 24)

3. The consolidation of small schemes offers clear and substantial benefits to members in terms of efficiency and sustainability. These potential rewards are longstanding, so the paucity of practical suggestions of how to achieve it was very disappointing. Successive governments, and the pensions industry, should have acted sooner. *We recommend the Government comes forward in its forthcoming Green Paper with proposals for removing regulatory and other barriers to scheme consolidation.* (Paragraph 37)

4. There is a very strong case for the creation of a statutory aggregator fund to facilitate the consolidation of the assets and liabilities of small schemes. This could be managed by the Pension Protection Fund (PPF), but there would not be a requirement for the sponsoring employer to be insolvent for the scheme to be included. This would be an attractive alternative to the insurance company buy-out market, especially for smaller employers which often find this option prohibitively expensive or unavailable. An aggregator fund would bring greater stability and certainty to scheme members. It would also increase the chances that small employers could continue to thrive, invest and employ. We envisage a proposal whereby the sponsoring employer would agree a conditional programme of contributions at the point of transfer to the aggregator form but would then cease to be otherwise connected to the scheme. (Paragraph 41)

5. *We recommend the Government consult in its forthcoming Green Paper on proposals to create a statutory aggregator fund for defined benefit (DB) schemes to be managed by the PPF. This consultation should consider points including:* how continued funding for the aggregated schemes should be secured;

   - *the nature of clearance required for sponsor contribution plans and to ensure consolidation was in the interests of members;*

- *which schemes would be eligible, including whether it should be restricted to closed schemes or schemes under a certain size limit; and*
- *whether a uniform benefit structure would be required and, if so, how this could be achieved.* (Paragraph 42)

6. Many DB pensions are small. They can be disproportionately costly for schemes to administer and hold assets for, and a very small regular pension payment may be less valuable to a member than its cash value or an alternative investment. It is clear that in certain circumstances it is mutually beneficial for a pension scheme and its members with small pensions to commute these into lump sum payments. It is essential, however, that a person contemplating taking this step has access to advice and guidance on whether it is the right decision for them. (Paragraph 47)

7. *We recommend the Government consult in its forthcoming Green Paper on relaxing the rules for taking small DB pension entitlements as lump sums. We further recommend the Government sets out in response to this report how it proposes to ensure that DB pension members have adequate access to advice and guidance in order to assess the merits of taking lump sums.* (Paragraph 48)

Identifying and intervening in potential problem schemes

8. The Pensions Regulator (TPR) has a substantial suite of powers. It is, however, reluctant to use some of them. This is particularly true of interventions before a scheme is in severe stress which could nip potential problems in the bud. Furthermore, we get the impression that it can be somewhat aloof in dealing with trustees when it is well placed to provide timely, informal guidance. We welcome TPR's announcement of a review of its regulatory approach and will follow its progress with interest. (Paragraph 57)

9. TPR has a scheme-specific approach to regulation, but this does not extend to the frequency of scheme valuations. *We recommend that the Pensions Regulator should adopt a risk-based approach to scheme valuations. Riskier schemes should provide them more frequently, while low risk schemes should not be required to report as regularly.* (Paragraph 62)

10. Fifteen months is a long period for any negotiation. It is certainly far too long for a regulator to be kept in the dark. If a scheme valuation and recovery plan takes more than nine months to agree then TPR's intervention in the scheme may well be warranted anyway. *We recommend that the statutory timescale for the submission of valuations and recovery plans be reduced to nine months. In instances where TPR has concerns about the sustainability of a scheme or the progress of recovery plan, it may be appropriate for it to intervene sooner to request information—for example, the valuation on which basis negotiations are ongoing. Similarly, TPR should encourage trustees to keep it updated on the progress of discussions and offer support where necessary.* (Paragraph 67)

11. *TPR needs to be tougher on deficit recovery plans. It should not be shy or slow in imposing a contribution schedule when a sponsor is not taking its responsibilities seriously. Recovery plans of more than ten years should be exceptional. Particular*

attention should also be paid to any plan which concentrates employer contributions in the distant future. As a general rule, the onus should be on sponsors to demonstrate that a recovery plan is reasonable in their specific circumstances. (Paragraph 74)

12. We support the risk-based PPF levy. It is important, however, that it does not increase insolvency risk by imposing disproportionate costs on schemes. We are particularly concerned that some groups of employers without access to expensive professional advice, or with atypical business models, may be disadvantaged by the current levy calculations. A risk-based levy is only fair if it accurately reflects risk. *We recommend that, as part of its forthcoming review of its levy rules for the three years from 2018–19, the PPF examine the effect of the levy framework on particular types of employer, including mutual societies and SMEs. It should rectify or otherwise adjust for any anomalies which adversely affect such groups.* (Paragraph 80)

Stressed schemes

13. The Regulated Apportionment Arrangement (RAA) is a means of negotiating an outcome for scheme members that is better than the PPF in instances where a sponsoring employer is in mortal danger. When agreed, it can produce results that are better for pensioners, better for employers and better for the PPF than insolvency. It is, however, very rarely used, and the process includes potentially harmful delays. It is an emergency measure, but it does not operate at an emergency pace. (Paragraph 92)

14. *We recommend that in its forthcoming Green Paper the Government consult on:*

- *reducing the interval, currently 28 days, betweeen TPR issuing a warning notice of an impending RAA and issuing a final notice; and*
- *relaxing the requirement for insolvency to be inevitable within 12 months for an RAA to be approved.*

We further recommend that TPR guidance be amended to encourage its involvement at an earlier stage in the formulation of RAA proposals in order to facilitate a more iterative approach. (Paragraph 93)

15. Pension promises are just that. Any change to the terms of them should not be taken lightly. In circumstances where an adjustment to the scheme rules would make the scheme substantially more sustainable, however, a reduction in benefits could well be in the interests of members. Some schemes have more generous indexation rules than others more by accident than design, and indexation by CPI rather than RPI is certainly preferable to corporate insolvency and a pension scheme in the PPF. Trustees should be empowered to take decisions in the long term interests of scheme members. (Paragraph 110)

16. *We recommend that in its forthcoming Green Paper the Government consult on means of permitting trustees to propose changes to scheme indexation rules in the interests of members. These proposals should be subject to regulatory approval but the presumption should be in favour of change. This measure should not only facilitate permanent changes to indexation rules; in many cases a conditional arrangement,*

whereby the scheme and employer have some breathing space to overcome difficulties, but then revert to more generous uprating when good times return, may be most appropriate. (Paragraph 111)

17. *We recommend the Government broaden TPR's power under section 11 of the Pensions Act 1995 to order the wind-up of a pension scheme. TPR should be permitted to wind-up a scheme when it is satisfied that this would be in the best interests of the PPF and its levy payers, and that no alternative option is realistically available to deliver a better outcome for members.* (Paragraph 117)

Anti-avoidance

18. Clearance has the clear benefit of enabling TPR to tackle potential moral hazard implications of corporate transactions head-on rather than after the event, while providing comfort and certainty to the scheme members and sponsoring firm. Clearance is far preferable to the drawn-out—and resource-intensive—legal process of enforcement action. It is, however, voluntary and employers are increasingly skipping it: there were 263 applications in 2005–06 but just nine in 2015–16. The incentives to seek clearance are currently weak. Some unscrupulous sponsors may well be calculating that they are better off risking a protracted anti-avoidance battle than coming to an immediate pension settlement. (Paragraph 140)

19. *We recommend that in its forthcoming Green Paper the Government consult on proposals to require advance clearance from TPR for certain corporate transactions that could be materially detrimental to the funding position of a DB scheme. The circumstances in which clearance was compulsory would have to be narrow to prevent a disproportionate effect on normal economic activity. They might include the sale or merger of a scheme sponsor where the pension deficit is higher than a fixed proportion of the value of the company. It is also reasonable to expect any prospective purchaser to have a credible plan for tackling a substantial pension deficit.* (Paragraph 141)

20. Under TPR's existing anti-avoidance powers, an employer seeking to avoid its responsibilities to a pension scheme may well take a punt on risking enforcement action. TPR has a mixed record, resolution may take several years, and the most TPR might hope to recover is the amount of support the employer should have provided to the scheme in the first place. In the meantime, the pension scheme members are left in limbo. (Paragraph 145)

21. *We recommend that in its forthcoming Green Paper the Government consult on giving TPR powers to add punitive fines to Contribution Notices and Financial Support Directions. These fines would have to be set at a high level to ensure they incentivised sponsors to properly fund pension schemes and seek clearance for corporate transactions which may be to a scheme's detriment. We recommend that fines that could treble the original demand be considered. The intention would be that such fines would not need to be imposed: they would act as a nuclear deterrent to avoidance.* (Paragraph 146)

Formal minutes

Monday 19 December 2016

Work and Pensions Committee

Frank Field, in the Chair

Mhairi Black
Ms Karen Buck
Craig Mackinlay
Steve McCabe

Draft report (*Defined benefit pension schemes*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 152 read and agreed to.

Summary agreed to.

Resolved, That the Report be the Sixth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till Wednesday 11 January at 9.15 a.m.

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the inquiry publications page of the Committee's website.

Monday 9 May 2016	*Question number*
Alan Rubenstein, Chief Executive, Pension Protection Fund,	Q1–91
Lesley Titcomb, Chief Executive, The Pensions Regulator, and **Nicola Parish**, Director of Case Management, The Pensions Regulator	Q92–197
Monday 23 May 2016	
Ian Greenstreet, Partner, Nabarro, **Tony Clare**, Partner, Deloitte, **David Clarke**, Partner, KPMG, **Richard Cousins**, Partner, PwC, and **Emma King**, Partner, Eversheds;	Q198–387
Owen Clay, Partner, Linklaters, **Steve Denison, Partner**, PwC, and **Anthony Gutman**, Co-Head, EMEA Investment Banking Services, Goldman Sachs;	Q388–475
Ian Grabiner, Chief Executive Officer, Arcadia, **Lord Grabiner**, Board member, Taveta Investments Ltd, **Paul Budge**, Finance Director, Arcadia Group, Director Taveta Investments Ltd, **Gillian Hague**, Director, Arcadia Group and Taveta Investments (No. 2) Ltd, and **Chris Harris**, Group Property Director, Arcadia Groupx	Q476–601
Wednesday 25 May 2016	
Chris Martin, Chair, BHS Pension Fund Trustees, **Mike Lymath**, BHS Pension Fund Trustee, **Phil Kitchen**, BHS Pension Fund Trustee, and **Jason Hyde**, BHS Pension Fund Trustee;	Q602–694-
Dr Margaret Downes, former Chair, BHS Pension Fund former Trustees, **Siobhan Forey**, former BHS Pension Fund Trustee, and **Richard de Dombal**, former BHS Pension Fund Trustee;	Q695–787
Stephen Hermer, Partner, Olswang, **Andrew Frangos**, Chief Executive, Cornhill Capital, and **Mark Byers**, Head of Advisory, Grant Thornton	Q788–910
Tuesday 7 June 2016	
Robin Saunders, Managing Partner of Clearbrook Capital Partners LLP;	Q911–1002
Nicolas Giauque, Managing Member: London, Farallon Capital LLP, and **Joseph Dryer**, Capital Markets and Advisory, RiverRock	Q1003–1133

Wednesday 8 June 2016

Michael Hitchcock, Former Finance Consultant, BHS, **Richard Price**, Former Chief Executive, BHS, and **Darren Topp**, Chief Executive, BHS — Q1134–1270

Mark Tasker, Former Director, Retail Acquisitions Ltd, **Eddie Parladorio**, Former Director, Retail Acquisitions Ltd, **Stephen Bourne**, Former Director, Retail Acquisitions Ltd, and **Aidan Treacy**, Chief Financial Officer, Retail Acquisitions Ltd — Q1271–1380

Dominic Chappell, Chief Executive, Retail Acquisitions Ltd — Q1381–1739

Wednesday 15 June 2016

Sir Philip Green, Chairman, Arcadia Group — Q1740–2333

Tuesday 28 June 2016

Alex Dellal, Director, Allied Commercial Exporters Ltd — Q2334–2483

Paul Sutton, Managing Partner, Deloitte — Q2484–2640

Neville Kahn, Financial Advisory, Deloitte — Q2641–2779

Wednesday 29 June 2016

Michael Sherwood, Vice Chairman, Goldman Sachs, **Anthony Gutman**, Co-Head, EMEA Investment Banking Services, Goldman Sachs, and **Michael Casey**, Managing Director, Goldman Sachs — Q2780–2889

Mark Sherwood, former Property Director, BHS — Q2890–2956

Paul Budge, Finance Director, Arcadia Group, and Director, Taveta Investments Limited, **Chris Harris**, Group Property Director, Arcadia Group, and **Brett Alexander Palos**, Director, Taveta Investments Limited — Q2957–3141

Wednesday 12 October 2016

Rt Hon Steve Webb, former Minister of State for Pensions, — Q3142–3182

Baroness Drake CBE, Pension scheme trustee and Governor of the PPI, **Professor David Blake**, Director, Pensions Institute, **Rosalind Connor**, Association of Pensions Lawyers — Q3183–3218

Monday 17 October 2016

Dr Ben Broadbent, Deputy Governor, Bank of England — Q3219–3256

Wednesday 19 October 2016

Baroness Altmann CBE, former Minister of State for Pensions, **Tim Sharp**, Policy Officer, TUC, **Stephen Pugh**, Finance Director, Adnams PLC, **Paul Duffy**, Secretary, SME PPF Levy Consultation Group, **Chris Martin**, Managing Director, Independent Trustee Services Limited	Q3257–3299
Andrew Bradshaw, Association of Professional Pension Trustees, **Janice Turner**, Co-Chair, Association of Member Nominated Trustees	Q3300–3330

Wednesday 2 November 2016

Malcolm Booth, Chief Executive Officer, National Federation of Occupational Pensioners, **Neil Carberry**, Director for People and Skills, CBI, **Joanne Segars**, Chief Executive, Pensions and Lifetime Savings Association	Q3331–3384
Alan Rubenstein, Chief Executive, Pension Protection Fund	Q3385–3424

Wednesday 23 November 2016

Lesley Titcomb, Chief Executive, and **Andrew Warwick-Thompson**, Executive Director of Policy, The Pensions Regulator	Q3425–3472
Richard Harrington MP, Parliamentary Under Secretary of State for Pensions	Q3473–3501

Published written evidence

The following written evidence was received and can be viewed on the inquiry publications page of the Committee's website.

PPF numbers are generated by the evidence processing system and so may not be complete.

1 Adnams PLC (PPF0031)

2 AlixPartners (PPF0052)

3 Allan Martin (PPF0032)

4 Andrew Rear (PPF0085)

5 Aon (PPF0062)

6 Association of British Insurers (PPF0077)

7 Association of Consulting Actuaries (PPF0039)

8 Association of Pension Lawyers (PPF0071)

9 Association of Professional Pension Trustees APPT (PPF0128)

10 Baroness Jeannie Drake (PPF0125)

11 British Medical Association (PPF0116)

12 Broadstone (PPF0076)

13 Cardano (PPF0061)

14 CBI (PPF0012)

15 Communication Workers Union (PPF0075)

16 Co-operatives UK (PPF0059)

17 David Bridgeman (PPF0098)

18 David Milow (PPF0110)

19 David Northcroft (PPF0014)

20 DEC Pensioners (PPF0037)

21 Department for Work and Pensions (PPF0016)

22 Dr Andrew Turner (PPF0041)

23 Dr Ken Nicholson (PPF0120)

24 Dr Steve Priddy (PPF0035)

25 EEF (PPF0072)

26 Eifion Edwards (PPF0121)

27 Employer Covenant Working Group (PPF0038)

28 Financial Inclusion Centre (PPF0086)

29 First Actuarial (PPF0068)

30 Freshfields Bruckhaus Deringer LLP (PPF0082)

31 Government Actuary's Department (PPF0103)

32 Gowling WLG (UK) LLP (PPF0067)

33 Graham Cox (PPF0006)

34 Halcrow Pensioners Association (PPF0040)
35 Hargreaves Lansdown (PPF0017)
36 Hewlett Packard Pension Association (PPF0127)
37 Hewlett Packard Pension Association (PPF0056)
38 Howarth Timber Group Ltd (PPF0029)
39 Hymans Robertson (PPF0084)
40 Institute and Faculty of Actuaries (PPF0073)
41 Institute for Family Business (PPF0114)
42 John Cavanagh (PPF0036)
43 John Ralfe (PPF0104)
44 John Ralfe (PPF0003)
45 John Wetton (PPF0097)
46 Keith Dodwell (PPF0094)
47 Kenneth Falls (PPF0119)
48 Lady Barbara Judge (PPF0132)
49 Lane Clark & Peacock LLP (PPF0047)
50 Lin Macmillan (PPF0015)
51 Lin Macmillan (PPF0021)
52 Mel Jenkins (PPF0129)
53 Mercer Ltd (PPF0064)
54 Midland Newspapers Pension Trustees Limited (PPF0044)
55 Mr Anthony Reading (PPF0101)
56 Mr Christopher Jeffery (PPF0026)
57 Mr David Clarke (PPF0023)
58 Mr David Standerwick (PPF0027)
59 Mr Derek Scott (PPF0024)
60 Mr Kenneth Falls (PPF0028)
61 Mrs C Patel (PPF0022)
62 Mrs Lynda Foy (PPF0099)
63 Name withheld (PPF0122)
64 National Federation of Occupational Pensioners (PPF0105)
65 National Federation of Occupational Pensioners (PPF0124)
66 Neil Jeffares (PPF0034)
67 Norma Cohen (PPF0112)
68 NXET Trains Limited (PPF0063)
69 Occupational Pensioners’ Alliance (PPF0043)
70 Pension Insurance Corporation (PPF0100)
71 Pensions Action Group (PPF0107)

72 Pensions and Lifetime Savings Association (PPF0018)
73 Pensions and Lifetime Savings Association (PPF0090)
74 Pensions Institute (PPF0030)
75 Pensions Institute (PPF0113)
76 Peter Crush (PPF0123)
77 Peter Moore (PPF0108)
78 Philip Coggan (PPF0005)
79 Professor Ian Tonks (PPF0025)
80 Professor Michael Hutchings (PPF0089)
81 Professor Paul Sweeting (PPF0111)
82 Professor Prem Sikka (PPF0009)
83 Professor Prem Sikka (PPF0115)
84 Prospect (PPF0020)
85 Prospect (PPF0050)
86 Railways Pension Trustee Company Limited (PPF0065)
87 Redington (PPF0106)
88 Redington Ltd (PPF0051)
89 Robin Knight (PPF0130)
90 Roger Fokerd (PPF0033)
91 Roger Pemberton (PPF0131)
92 Samuel Pickford (PPF0049)
93 Scottish and Northern Ireland Plumbing Employers' Federation (PPF0117)
94 SEI (PPF0070)
95 ShareAction (PPF0083)
96 Slaughter and May (PPF0080)
97 SME PPF Levy Consultation Group (PPF0019)
98 Steve Webb (PPF0002)
99 Stephen Cannon (PPF0133)
100 Sylvia Colgate (PPF0087)
101 The National Federation of Occupational Pensioners (NFOP) (PPF0010)
102 The Pension Protection Fund (PPF0001)
103 The Pension Protection Fund (PPF0013)
104 The Pension Protection Fund (PPF0088)
105 The Pensions Action Group (PPF0007)
106 The Pensions Regulator (PPF0004)
107 The Pensions Regulator (PPF0091)
108 The Wildlife Trusts (PPF0126)
109 Trades Union Congress (PPF0069)

110 TUC (PPF0008)

111 UNISON (PPF0074)

112 UNISON Capital Stewardship Programme (PPF0060)

113 Unite (PPF0093)

114 Vincent Phillips (PPF0066)

115 W H Brignall (PPF0096)

116 W.D Griffiths (PPF0118)

117 Willis Towers Watson (PPF0102)

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the publications page of the Committee's website.

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2015–16

First Report	Pension freedom guidance and advice	HC 371 (Cm 9183)
Second Report	Welfare to work	HC 363 (HC 720)
Third Report	A reconsideration of tax credit cuts	HC 548
Fourth Report	Benefit delivery	HC 372 (HC 522)
Fifth Report	The local welfare safety net	HC 373 (HC 924)
Sixth Report	Understanding the new state pension – interim report on pension statements	HC 550
Seventh Report	Communication of state pension age changes –interim report	HC 899
Eighth Report	Communication of the new state pension	HC 926 (HC 229)
Ninth Report	Support for the bereaved	HC 551 (HC 230)
Tenth Report	In-work progression in Universal Credit	HC 549 (HC 585)
Eleventh Report	Automatic enrolment	HC 579 (HC 610)
First Special Report	Progress with automatic enrolment and pension reforms: Government and Financial Conduct Authority responses to the Committee's Fourth Report of Session 2014–15	HC 375
Second Special Report	Improving Access to Work for disabled people: Government response to the Committee's Second Report of Session 2014–15	HC 386
Third Special Report	Benefit Sanctions: Beyond the Oakley Review: Government Response to the Committee's Fifth Report of Session 2014–15	HC 557
Fourth Special Report	Pension freedom guidance and advice: Financial Conduct Authority Response to the Committee's First Report of Session 2015–16	HC 719
Fifth Special Report	Welfare-to-work: Government Response to the Committee's Second Report of Session 2015–16	HC 720
Sixth Special Report	The local welfare safety net: Government Response to the Committee's Fifth Report of Session 2015–16	HC 924

Session 2016–17

First Report	BHS	HC 54
Second Report	The future of Jobcentre Plus	HC 57
Third Report	Intergenerational fairness	HC 59
Fourth Report	Concentrix	HC 720
Fifth Report	Support for ex-offenders	HC 58
First Special Report	Communication of the new state pension: Government Response to the Committee's Eighth Report of Session 2015–16	HC 229
Second Special Report	Support for the bereaved: Government Response to the Committee's Ninth Report of Session 2015–16	HC 230
Third Special Report	Benefit delivery: Government Response to the Committee's Fourth Report of Session 2015–16	HC 522
Fourth Special Report	In-work progression in Universal Credit: Government Response to the Committee's Tenth Report of Session 2015–16	HC 585
Fifth Special Report	Automatic enrolment: Government Response to the Committee's Eleventh Report of Session 2015–16	HC 610