

The Pensions Regulator's Monetary Penalties Policy

The Pensions Regulator has updated its [monetary penalties policy](#) which explains how the Regulator will generally use its powers to impose civil penalties (fines) which it has the power to impose under pensions legislation.

The policy is relevant to any trustee, manager, employer, adviser or other person who may be given a monetary penalty for contravening pensions legislation.

The Regulator expects higher standards from [professional trustees](#) and will normally apply higher penalties for those professional trustees who fail to meet their duties.

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Underlying Objective

In imposing civil penalties the Regulator aims to promote compliance with pensions legislation. Penalties are to punish wrongdoing, deter repetition and act as a warning to others. Ignorance of the law is not a defence.

Except for a failure (by pension schemes providing money purchase benefits) to prepare a chair's statement, where a penalty is mandatory, in considering whether to impose a penalty, the Regulator will apply a risk based approach, taking into account the relevant facts of each case and the underlying object of imposing a penalty. One factor to be taken into account will be whether the breach has any knock on effect.

Similar considerations will apply when the Regulator is determining the amount of the penalty. Except in cases where the penalty has in law to be imposed on a joint and several liability basis on the trustee board as a whole, the Regulator will take into account the facts and circumstances relating to each person individually.

Co-operating with the Regulator

Even in the best run schemes things can go wrong from time to time. Reporting breaches promptly, co-operating with the Regulator, swiftly resolving breaches and taking steps to prevent a re-occurrence of the breach, are all steps which reduce the odds both of the Regulator using its financial penalty powers or imposing civil penalties at the top end of its permitted range.

Conversely, failing to notify a reportable breach, or deliberate concealment, will have the opposite effect.

Penalty Principles

Where a penalty is imposed the Regulator applies the following principles:

- The penalty should be proportionate to the nature of the breach and any harm caused (e.g. the number of members affected and/or the level/significance of detriment).
- The amount of the penalty should aim to change the behaviour of the person in breach.
- The penalty should aim to deter repetition of the breach among the wider regulated community.

Where a monetary penalty is imposed the amount will generally depend on the person concerned, band level (1-3, based on the nature and impact or potential impact of the breach) and any aggravating or mitigating factors. The Regulator will first consider whether the middle of the relevant band range should be the starting amount (and then adjust the penalty to take account of aggravating or mitigating factors), but it may choose a different starting amount if it considers it appropriate. The Regulator has discretion to impose a penalty up to statutory limits, which are generally £5,000 in the case of an individual and £50,000 in any other cases (e.g. a company). In some cases lower amounts have been prescribed.

Comment

The Regulator's revised monetary penalties policy is a toughening of the Regulator's stance. While those trustees, who are viewed as professional trustees by the Regulator, have to be particularly aware of the new policy, all trustees, regardless of their type, need to be conscious of how the Regulator is likely to react to a breach of the legislation.

Civil penalties (fines) do not go towards the cost of running the Regulator but are remitted to HM Treasury.

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