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TPR Future: A New Approach to Pension Regulation

An increasing number of workplace pension schemes will come under greater scrutiny from the Pensions Regulator from next month as part of a significant shift in its approach to protect savers.

The Regulator will be working proactively with more pension schemes through a range of interventions to address risks sooner, clearly set out its expectations, and take action where necessary.

The changes result from the Regulator's major review of the way it regulates, which is now transforming how it works to safeguard member benefits. Following the review, the implementation phase of its new operating model is now underway.

This affects trustees and employers of both defined benefit (DB) and defined contribution (DC) workplace pension schemes.

Background

The Regulator has, at times unfairly, been criticised for its handling of a number of high profile cases in recent years. Political pressures, along with changes to the pensions landscape and economic changes have led it to review the way it regulates workplace pension schemes. The first two phases of the review resulted in the Regulator identifying opportunities for it to improve in five key areas over the next five years by:

- Clarifying its identity and improving how it engages.
- Setting clear expectations.
- Improving its regulatory oversight.
- Using a wider range of regulatory interventions.
- Being more efficient and effective.

Phase 3 of the review, the implementation phase, is designed to be a radical shake-up of the way it regulates workplace pension schemes to enable the Regulator to be clearer, quicker and tougher.

The New Approach to Regulation

The themes are, by now, familiar. The Regulator will be clearer in setting out its expectations; it will intervene in the running of pension schemes more often and move to enforcement more quickly if necessary.

A new Regulator website will be launching later in the year, with a visual identity to reflect the Regulator's tougher tone of voice. It is also undertaking a comprehensive guidance review, to confirm and clarify the purpose of all its online guidance, and potentially refine content to make its expectations clearer.

A framework of regulatory risk will be used to prioritise and focus the Regulator's efforts on the areas of imminent risk to members. It has also developed "horizon scanning" to ensure that its strategy and regulatory approaches are also informed by longer term threats and opportunities. Its new Supervision team will intervene more, and with a much wider range and volume of pension schemes and employers.

> "Schemes across all sectors, whatever their size, can expect the volume and frequency of their interactions with us to increase so that potential risks to pension savers are identified early and put right before it becomes necessary for us to use the full force of our enforcement powers." Lesley Titcomb

The Regulator notes how it is already being more proactive, for example, contacting pension schemes with employers that may be impacted by fallout from Carillion and those who are subject to large takeovers or mergers (such as deals between GKN & Melrose and Sainsbury's & Asda).

There has also been a greater focus on compliance with basic governance requirements such as completing chairs' statements and scheme returns. Publicising this work in its quarterly compliance and enforcement bulletins, and naming schemes that have been subject to financial penalties on its website, highlights the Regulator's approach to combatting poor governance.

Direct supervision

Dedicated one-to-one supervision is being introduced for 25 of the biggest pension schemes (of all types) from next month, with this approach being rolled out to more than 60 schemes over the next year. The Regulator will maintain ongoing contact with these schemes, and in some cases their sponsoring employers, reflecting their size and strategic importance within the pensions landscape.

In addition to one-to-one contact, higher volume supervisory approaches are also being introduced from next month to address risks and influence behaviors in a broader group of pension schemes. This second type of intervention will be piloted with approximately 50 DB schemes to assess compliance with messages in the Regulator's 2018 annual funding statement, specifically concerning whether schemes are being treated fairly when it comes to dividend payments to shareholders. Hundreds of schemes are expected to experience higher volume supervisory approaches over time to tackle different risks across the pensions' landscape.

DB pension schemes will experience an increased likelihood of Regulator intervention concerning their annual valuations and the reduction of deficits. As the Regulator starts to focus more intently on groups of pension schemes, it will be contacting more DB schemes to request specific improvements are made.

The responses to the Regulator will be analysed and, if concerns are not properly addressed, trustees and sponsoring employers can expect an escalation in the Regulator's approach with more intense regulatory activity. This could include face-to-face meetings to agree actions, issuing formal improvement notices or the use of enforcement powers.

What's next?

Taking on industry comment, the Regulator has been working closely with the Financial Conduct Authority and plans to publish a joint pension strategy this autumn to set out their respective remits, how they will work together, and their analysis of the main risks and issues that they will be tackling.

All trustees need to be aware of what the Regulator is now expecting of them and have procedures in place to promptly respond to any requests for information they receive from the Regulator. Failing to promptly respond is inevitably going to lead to a pension scheme coming under greater scrutiny.

Trustees undertaking valuations need to understand their long term funding target, including the associated risks, and the details of the employer covenant supporting their pension scheme. They should be prepared to be robust with the employer regarding recovery plans and the fair treatment of the pension scheme in comparison to other stakeholders in the business.

Trustees should also ensure that all governance related documentation such as risk registers, Integrated Risk Management policies (including contingency plans), compliance statements, conflict management plans, trustee training plans and logs etc. are up to date as they might have to be sent to the Regulator at short notice.

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