Punter Southall
CONSULTING ACTUARIES

BriefingNote

November 2017

In brief

- TPR has launched its campaign on 21st century trusteeship
- Good governance is an essential part of effective scheme management for all schemes
- TPR has set out a new policy on monetary penalties and definition of professional trustees
- TPR is already making greater use of its powers to prosecute and impose fines
- Trustees will be required to report their record-keeping scores in their 2018 scheme return

Next steps

- Trustees should review their governance framework to ensure that it is robust

21st century trusteeship: raising governance standards

On 18 September 2017, the Pensions Regulator (TPR) formally launched its campaign on 21st century trusteeship, with a new section dedicated to the subject on its website. TPR's message is clear: trustees who fail to comply will face enforcement action.

Background

Over the last year, TPR has been talking about the '21st century trustee', and how it sees the role evolving. From TPR's perspective, 21st century trusteeship is all about raising standards of trustee competence so that schemes are better run and members achieve good retirement outcomes. TPR kicked off the initiative in July 2016 with a discussion paper on how to achieve this. In its response, TPR confirmed that it would make greater use of its powers where there have been scheme governance and administration failings.

Launched formally in September 2017, the 21st century trusteeship programme aims to provide more support for trustees – particularly those in smaller schemes – to help them meet its expected standards. TPR insists that it is not creating new or higher standards of governance. Rather, it is clarifying what 'good' governance looks like, and spelling out what enforcement action it will take where these standards are not met.

As part of this drive, TPR finalised its approach to monetary penalties in August 2017. Its underlying objective is to promote compliance with pensions law – the rationale being that 'penalties punish wrongdoing, deter repetition and act as a warning to others'. At the same time, TPR confirmed who would fall within the scope of a 'professional trustee' and consequently who is expected to meet higher standards of governance.

The overall programme is divided into bite-sized themes, with new content added monthly. Three themes have been published so far. As the campaign continues, it will cover further core areas such as the importance of managing advisers, providers and conflicts of interest.

Theme 1: good governance

TPR points out that good governance is the bedrock of a well-run pension scheme, and key for members' retirement outcomes. It is not a 'nice to have' – it is an essential part of effective scheme management, for *all* schemes.

Research conducted by TPR during the first part of 2017 highlighted that, whilst some trustees are doing a good job, many trustee boards – particularly in small and medium-sized schemes – have failed to act on TPR's codes of practice and guidance to meet standards of good governance.

TPR makes clear that trustee boards must ensure that they have the right people, structures and processes in place, which work well for their particular scheme. This will assist in effective decision-making, managing risks to the scheme and members, and setting clear objectives. It will also help with effectively overseeing administration, record-keeping, funding (for defined benefit (DB) schemes), investment and member communications.

Getting the basics right is the first step. This includes ensuring TPR has up-to-date information about the scheme, paying the scheme levy on time, completing the annual scheme return accurately and on time, and responding to TPR's requests for scheme information. For trustees of defined contribution (DC) schemes, it also means producing a good quality Chair's statement; indeed, TPR has issued guidance on what a 'good' and 'poor' statement looks like. DB scheme trustees must ensure that valuations (and any recovery plan) are submitted within the statutory 15-month deadline, risks are managed in an integrated way and necessary action is taken to secure fair treatment between scheme and shareholders.

Failing to comply with these basic legal duties is likely to be a sign of wider governance failings; TPR is paying much more attention to such schemes as it believes they pose a greater risk. During 2017, TPR has 'named and shamed' a number of trustees on its website for breaches of legislation, including failure to submit the annual scheme return and complete the Chair's statement. Whilst the reputational damage of appearing on this list may be a more significant sanction for some, TPR also has the power (and, in the case of the Chair's statement, the duty) to impose financial penalties. TPR has imposed the maximum fine on professional trustees who have failed to comply with the basics.

Overall, TPR has made use of its wider powers in 2017, ranging from issuing improvement notices to tell trustees where they are getting it wrong and what is expected of them, to using its criminal prosecution powers under section 72 of the Pensions Act 2004.

Theme 2: clear roles and responsibilities

Just like any other corporate board, trustee boards need to have people with the right skills, experience and knowledge.

October's theme highlights the importance of clear roles and responsibilities. Trustees must be clear on their objectives and devote their time to the areas that have the greatest impact on achieving those objectives. This means focusing on strategic issues and considering whether to delegate some day-to-day tasks and decision-making. For delegated matters, trustees should decide and document how decisions are made and escalated, and who does this. The trustees should document what to report to the board, by whom and how. There is guidance on example terms of reference for trustee boards and sub-committees, as well as examples of what good and poor behaviours look like.

Theme 3: clear purpose and strategy

Setting a clear purpose and strategy is essential for managing a scheme effectively and achieving good outcomes for members. According to TPR, a business plan is vital to help a scheme to plan ahead and ensure effective use of time and compliance with legal requirements.

The importance of good data

TPR is also striving to improve the quality of record-keeping as poor data can negatively affect members. Its experience has shown that good administration links to better outcomes for members.

For the first time in 2018, schemes will be asked to report their scores for 'common' and 'conditional' data as part of the scheme return process. ('Conditional' data links a person to a particular scheme, such as their pensionable salary and the date they joined the scheme.) The 2018 scheme return will include two new questions on both categories of data: when it was last reviewed and what the scheme's data score is. A new guide on how to measure data is now available on TPR's website and sets out how to calculate a data score. DB scheme return notices will be issued from January 2018, whilst DC ones will follow in summer 2018.

What's next?

TPR has set out an intention to be 'clearer, quicker and tougher', so it is important for trustees to ensure they are comfortable with the governance framework they have in place. This could be done in conjunction with their integrated risk management framework, where operational risks should not be forgotten as the fourth pillar of risk, alongside covenant, funding and investment risks.

Trustees should ensure they are engaged with scheme governance. It should not be a tick-box exercise relegated to the end of meeting agendas, but a regular and integral part of meeting discussions.

Punter Southall offers a risk review service. This provides an independent perspective to give comfort in the robustness of a scheme's governance framework and flag any areas to consider.

Where can I get further information?

Please get in touch with **Rob Wallace**.

0118 313 0700

robert.wallace@puntersouthall.com

company/punter-southall @puntersouthall

Alternatively, please speak to your usual Punter Southall contact.

Punter Southall has offices across the UK.
For further information, visit our website at **www.puntersouthall.com**