The Pensions Regulator

Clearance guidance

This guidance was published in March 2008 and is now out of date. You'll find the most current guidance, published June 2009, on the regulator's website:

www.thepensionsregulator.gov.uk/guidance/clearance/index.aspx

Key points

- Clearance is the voluntary process for obtaining a clearance statement from the regulator.
- A clearance statement is not approval of a transaction such as an acquisition or merger; rather it gives assurance that we will not use our anti-avoidance powers in relation to that transaction.
- Clearance is relevant for those considering corporate transactions or scheme-related events which are materially detrimental to a defined benefit pension scheme and its members (known as 'type A events').
- This guidance is primarily aimed at professional advisers, who should bring it to the attention of employers involved in schemes, as well as parties who are connected and associated with employers, and trustees.

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Introduction

1. The Pensions Regulator (the 'regulator') is the regulatory body for work-based pension schemes in the UK. The Pensions Act 2004 (the '**Act**') gives the regulator a set of specific objectives, which are:

   - to protect the benefits of, or in respect of, members of occupational pension schemes;

   - to reduce the risk of situations arising that may lead to claims for compensation from the Pension Protection Fund (the 'PPF'); and

   - to promote, and to improve understanding of, the good administration of work-based pension schemes.

2. '**Clearance**' is the term used to describe the voluntary process of obtaining a **clearance statement** from the regulator. A **clearance statement** gives assurance that, based on the information provided, the regulator will not use its anti-avoidance powers to issue to the **applicants** either **contribution notices** or **financial support directions** in relation to a defined benefit occupational pension **scheme** and a particular **event**. '**Events**' include transactions, agreements, decisions, other acts and failures to act.

3. A **clearance statement** will not bind the regulator if circumstances are materially different from the contents of the application.

4. **Contribution notices** require payment to be made into a **scheme**, and **financial support directions** require financial support to be put in place for a **scheme**. They were introduced by the **Act** in order to protect the benefits of **scheme** members and to ensure that pension liabilities are not avoided or unsupported. Further information about these powers can be found in Appendix B.

5. These powers are only part of the regulator's approach to ensuring that **schemes** are properly funded, administered and supported. The regulator also has powers in relation to scheme funding, as well as other powers to protect members' benefits, such as powers to wind up **schemes** or to appoint an independent trustee. Further information about these other regulatory powers can be found on our website: About us / Our powers.

About this guidance

6. This guidance is primarily aimed at professional advisers, who should bring it to the attention of **employers** involved in **schemes** as well as parties who are connected and **associated** with **employers** and trustees. It has been updated in light of our experience of operating **clearance** and reflects the way that both the regulator and the market have developed since **clearance** was introduced in April 2005.