

Compliance and enforcement policy

for occupational pension schemes providing money purchase benefits

Our compliance and enforcement policies are currently being reviewed to reference our new Pension Schemes Act 2021 powers and regulatory approach. However, they remain in full force until that update.

For information on:

- gathering information for our investigations, please see the consultation on our draft information-gathering policy: <https://www.tpr.gov.uk/en/document-library/consultations/new-enforcement-policies-consultation> which is open until 22 December 2021
- decisions when we make a choice between use of our regulatory powers and our criminal powers, please see the consultation on our draft overlapping powers policy: <https://www.tpr.gov.uk/en/document-library/consultations/new-enforcement-policies-consultation>
- investigations and prosecutions on the new criminal offences of avoidance of employer debt and conduct risking accrued scheme benefits, please read the criminal offences policy: <https://www.tpr.gov.uk/en/document-library/strategy-and-policy/criminal-offences-policy>

Introduction

The Pensions Regulator was established under the Pensions Act 2004¹ (the '2004 Act') to regulate work-based pensions.

This document sets out an overview of our regulatory strategy and approach to compliance and enforcement in relation to occupational schemes providing money purchase benefits.

The overriding strategic aim of our approach to defined contribution (DC) regulation is to support the market in delivering good outcomes for members, intervening only where the market appears unlikely to do so unaided. We are committed to following best practice in risk-based regulation with a proportionate approach that is mindful of burdens on business.

Who this policy is for

This policy is for trustees and managers of all occupational schemes with two or more members (whether active, deferred or pensioner) that offer money purchase benefits. It will also be of relevance to others such as service providers, advisers and employers.

This means that as well as applying to DC schemes and DC sections within schemes offering mixed benefits, it also applies to money purchase additional voluntary contributions (AVCs) within occupational defined benefit (DB) schemes and money purchase underpin benefits where these are provided by a scheme, insofar as the relevant legislation applies to them.

In this policy the term 'trustees' should also be taken to mean 'managers' in the case of non-trust based schemes, and directors of a corporate trustee (unless the context suggests otherwise).

This policy does not relate to:

- ▶ schemes providing only DB benefits (including added years AVCs)
- ▶ hybrid schemes insofar as they relate to DB benefits
- ▶ work-based personal pensions/stakeholder schemes or other contract-based schemes
- ▶ duties for employers in respect of automatic enrolment. These are covered by our automatic enrolment compliance and enforcement policy at www.tpr.gov.uk/ae-policy

¹ Legislative references should be read as including the equivalent legislation for Northern Ireland.

Our strategy

Our strategy is to educate and enable those involved in the provision of occupational DC schemes to comply with the law and meet the standards we expect. However, where there is a failure to comply with the law we will consider taking enforcement action. We will continue to review and evolve our approach to ensure it remains effective.

We are transparent in our expectations and our actions. We will therefore publish policies and statements that set out the risks as we understand them, the desired outcomes and our approach to supporting the achievement of those outcomes.

Our approach will be principle-based and outcome-focused, rather than prescriptive. We will continue to take a targeted approach to regulating the risks within different segments of the DC landscape, and will be more visible in our regulation of certain segments, for example master trusts, which are playing a key role in automatic enrolment.

We expect compliance with the legal requirements and believe that focusing on the substance of issues promotes flexibility and innovation and encourages best practice.

Our approach to risk

Fundamental to our approach to the regulation of occupational DC schemes is that we will target our resources and activities at the risks we believe pose the greatest threat to good outcomes for members.

We have developed a DC risk framework with supporting risk identification, assessment and management processes which define our risk tolerance levels. This forms the basis of our operational activity and ensures that we are targeted and proportionate.

We will identify, analyse and evaluate material risks to good member outcomes, and risks of non-compliance with relevant pensions legislation, at a market, segment and individual scheme level.

The risks we identify are documented and prioritised and will evolve to take account of material new risks as they are identified.

Key risk areas

We have summarised what we regard as the key risks to occupational DC schemes under the following headings:

- ▶ Poor standards of governance – including the knowledge and understanding required of trustees to deliver good member outcomes.
- ▶ Poor investment governance and inadequate cost controls – both of which may result in the loss or unreasonable reduction of scheme assets.
- ▶ Poor administrative practices – which may lead to further costs for members, including the cost of putting things right.
- ▶ Scams and the misappropriation of scheme assets – which can have an immediate and catastrophic impact on an individual's pension savings.

We take very seriously the actions or inactions of trustees which lead to the loss of pension savings through scams or the misappropriation of scheme assets. In these cases we will intervene to secure assets and disrupt the activities of those who prey on members, if necessary by suspending or prohibiting those concerned from acting as trustees.

In addition to these key risks, since April 2015 certain occupational DC pension schemes have been subject to new requirements in relation to governance standards and charge controls. They also need to evidence their compliance with those requirements in the form of an annual statement by the chair of trustees. Confirmation of compliance, or failure to comply, with certain legal requirements must be reported via the scheme return.

We expect trustees to meet the standards set in legislation. Where they fail to do so they may face enforcement action, including the possibility of a financial penalty, and a mandatory penalty where they fail to prepare the chair's statement within the statutory timeframe.

Regulatory approach

Our DC risk framework forms the basis of our approach. These are explained below.

Proactive engagement

Targeted early intervention is more effective in supporting compliance and furthering good member outcomes than intervening after failures have occurred, so we will engage with trustees, advisers and providers where we consider it appropriate. This will help us to understand the risks to compliance and good member outcomes in a particular area or within a segment of the market and to target our action appropriately. In particular, we want to understand how the DC governance standards and charge control regulations are being met in order to identify good practice, and how we can support trustees to comply with their legal duties and deliver good member outcomes.

Our engagement will take various forms. We may engage directly with new schemes coming to the market, for example master trusts, which are playing a key role in automatic enrolment. Or we may proceed on a thematic basis where we want to understand practices in a particular field or market segment.

We will keep abreast of industry and market movements, monitoring market trends and new entries to and exits from the market.

Working with us

We expect trustees to work with us in an open and co-operative way. We are aware that different types and sizes of schemes present different types of risks and take that into account when deciding how to interact with a particular scheme or group of schemes.

Where trustees, providers, advisers or others fail to respond to information requests without reasonable explanation, we may use our formal information gathering powers under section 72 of the 2004 Act or undertake an inspection under section 73 of the 2004 Act (supported by a warrant, if obtained, under section 78 of the 2004 Act) to obtain the information relevant to the exercise of our functions.

Whistle blowing reports

Whistle blowing is a key component in identifying breaches. Section 70 of the 2004 Act requires trustees and others – including sponsoring employers, auditors, actuaries, and other professional advisers – to report breaches of the law to us where they consider them likely to be materially significant to us. Our ‘Reporting breaches of the law’ code of practice and supporting guidance (see www.tpr.gov.uk/breaches) provides guidance on how to assess material significance.

Where breaches are reported we will assess them to determine what further action may be necessary. Our response will depend on a number of factors and may result in enforcement action, including the imposition of penalties.

Scheme information requirements

Trustees have a legal obligation to give us information about their pension scheme on registration, and by completing a scheme return when required.² They must also keep their scheme’s registrable information up to date.³ Even if trustees have delegated these tasks to another person they remain legally responsible for ensuring compliance. We can impose fines and/or take other action where trustees fail to comply with these requirements.

The information collected by virtue of these requirements is fundamental to our regulation of pension schemes. We use it to ensure the register of pension schemes is up to date, identify schemes where there is a risk, or potential risk, to members’ benefits, and to calculate annual levy charges, for example.

In particular, confirmation of compliance, or failure to comply, with certain legal requirements must also be reported via the scheme return where relevant. These include the obligation to prepare the annual chair’s statement and charge control requirements.⁴

We view completion of the scheme return as a basic requirement for trustees. Failure to complete the scheme return is a key risk indicator that there may be wider governance failings in a scheme.

Our usual approach where there is a failure to complete the scheme return will be to recommend to the Determinations Panel that the trustees are fined and/or to consider other action as appropriate. Factors we may take into account when considering the amount of any penalty and/or what other action may be appropriate are set out on pages 16-17.

2
Section 64 of the 2004 Act.

3
Section 62 of the 2004 Act.

4
Regulations 23 and 26 (where applicable) of the Occupational Pension Schemes (Scheme Administration) Regulations 1996 and Part 2 of the Occupational Pension Schemes (Charges and Governance) Regulations 2015.

Our activities to support compliance

We expect trustees and others involved with the governance and administration of occupational DC schemes to carry out their roles competently and have sufficient skills, knowledge and understanding to be able to do so.

We place great emphasis on education and believe this is usually the most efficient and effective means of supporting those involved in the running of pension schemes.

In addition to the DC code of practice (and our other codes), we provide specific, practical guidance for trustees (eg the Trustee toolkit) to support them in improving standards of governance and administration and complying with legal requirements.

Our website directs trustees to resources relating to key themes in the DC code, such as conflicts of interest, managing risk, internal controls and managing administration and core financial transactions.

We expect trustees to make use of educational tools and products, whether they are products that we have provided, or other equivalent training or qualifications. Our guidance also helps advisers and providers to understand the requirements of the relevant pensions legislation and how their role may be relevant in helping trustees comply with those requirements.

We have provided a tool for trustees to assess the governance standards in their scheme against the DC code as this will assist them in establishing areas of risk, developing a plan to manage their scheme and in producing the annual chair's statement.

We have also worked with the ICAEW to develop the assurance framework for master trusts. This framework enables master trusts to assess whether their scheme has adopted the internal controls necessary to meet the standards of governance set out in the DC code and DC regulatory guidance.

When we will investigate

Where there has been a breach or suspected breach of legal requirements we will consider whether an investigation is appropriate and, if so, the form that any potential enforcement action might take. See pages 17-18 for information about the mandatory penalty, which will be imposed without investigation where a breach of the chair's statement requirement is indicated on the scheme return.

We may seek information, documentation or an explanation, on a voluntary basis, from pension scheme trustees or any other person if we believe they may be in possession of relevant information or documents. This may include members, third party advisers giving advice or providing business services to trustees, and participating employers or providers of occupational pension schemes.

Where trustees or others fail to respond to information requests without reasonable explanation, or where we otherwise consider it appropriate, we may use our formal information gathering powers under section 72 of the 2004 Act or undertake an inspection under section 73 of the 2004 Act (supported by a warrant, if obtained, under section 78 of the 2004 Act) to obtain the information relevant to the exercise of our functions.

The information we may ask for will depend on the nature of the breach, but may include the annual chair's statement, service agreements with administrators, investment reports, statements of investment principles, risk registers and the minutes of trustee meetings.

In some cases we may move to enforcement action without engaging directly with trustees, for example to protect scheme assets where there is evidence of a scam and where engagement would put scheme assets at further risk.

Our investigations are conducted in line with our legal obligations, including compliance with the Human Rights Act 1998 and the Equality Act 2010.

All information and evidence gathered during an investigation which amounts to personal data will be held securely and disposed of in accordance with the Data Protection Act 1998. We will disclose information only where we can lawfully do so and in line with the 2004 Act governing disclosure of information obtained in the exercise of our statutory functions.

Not all breaches will require investigation in order to determine what action (if any) to take. For example, once factually established, breaches of basic administrative duties such as submitting the scheme return, updating registrable information or producing a chair's statement, will generally not require further investigation and we may proceed straight to enforcement action. In particular, if a breach of the requirement to prepare a chair's statement is reported via the scheme return we are required to issue an automatic penalty to the trustees.

Making decisions

Following an investigation we will determine what, if any, enforcement action to take in relation to a particular breach of legislation. A decision as to whether or not to carry out certain enforcement actions will be taken by the Determinations Panel, following a referral to the Panel.⁵

In deciding our approach, we will take into account all relevant factors. We will focus on the outcome that the action would deliver.

It would be impractical to provide an exhaustive list of all the factors we consider when there has been a breach of legislation as these will vary on a case-by-case basis. However examples are provided below as an indication of the type of factors we may consider. These examples are not comprehensive, nor are they prescriptive or weighted in any way.

- ▶ The number of members affected.
- ▶ The extent to which there is a systemic problem.
- ▶ The financial impact on individual and/or groups of members.
- ▶ The severity and duration of the breach.
- ▶ Whether the breach was intentional or could have easily been prevented.
- ▶ The degree to which practices relating to the breach in question are inconsistent with the DC code.
- ▶ Whether the trustee(s) has/have deliberately sought to conceal their non-compliant behaviour by giving false or misleading information to members and/or us.
- ▶ Whether the trustee(s) is/are able to demonstrate that they possess adequate knowledge and understanding and have a training schedule in place.

⁵ Reserved regulatory functions are exercised by the Determinations Panel on our behalf. We also have power to authorise the Panel to exercise certain of its functions (section 10 of the 2004 Act).

- ▶ Whether the trustee (or director of a corporate trustee) is a professional trustee, or whether there is a professional trustee on the trustee board (or board of directors in the case of a corporate trustee), of whom we expect a higher standard of expertise. We consider a professional trustee to be an individual or body corporate which charges for their services rather than just reclaiming necessary expenses, or who holds themselves out to be an expert in trustee matters.
- ▶ Conduct of the trustee(s) once the non-compliance has been brought to their attention. For example:
 - the speed and co-operation shown to resolve any issues brought to their attention.
 - whether they accept responsibility for the non-compliance or demonstrate entrenched behaviours.
 - willingness to engage and co-operate with us.
- ▶ The track record of the trustee(s) in complying with their duties and obligations.
- ▶ Evidence of dishonesty or wilful failures to comply.
- ▶ The extent to which a third party contributed to the trustee failing to comply with the relevant legislation.
- ▶ Whether or not the scheme is being used by employers for the purposes of meeting their automatic enrolment duties.

Enforcement options

Where we have discretion whether or not to take enforcement action or to refer a matter to the Determinations Panel for decision, we also have discretion to determine which enforcement option to take in the circumstances of the case.

Our enforcement powers can be applied to trustees, employers or third parties (including service providers)⁶ where those parties have themselves breached a legal duty or caused someone else to do so. We may select from one or more enforcement options, which include statutory Compliance Notices, improvement notices, skilled person reports, trustee suspensions, prohibitions and appointments and monetary penalties.

⁶
For example, under regulation 11A of the Occupational Pension Schemes (Charges and Governance) Regulations 2015.

Where we decide to commence enforcement action, our teams and the Determinations Panel will follow the relevant procedure:

- ▶ Where enforcement action is being taken under the Occupational Pension Schemes (Charges and Governance) Regulations 2015 we will follow the procedure stated in the Annex to this document.
- ▶ In all other cases, we will follow the Staff Determination or Case Team Procedures, and the Determination Panel will follow the Determinations Panel Procedure, which can be found at www.tpr.gov.uk/procedures.

The procedures describe how decisions on cases are made, and when and how they can be referred to the appropriate tribunal.

Civil penalties

When considering the amount of a penalty to be imposed⁷, or to be recommended to the Determinations Panel where appropriate⁸, we will be guided by the following principles:

- ▶ The penalty should be proportionate to the nature of the breach and any harm caused (eg 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 amongst the wider regulated community.
- ▶ The penalty should be increased where any repetition of the same or similar behaviour has occurred, up to the statutory maximum.

Any and all other relevant aggravating or mitigating factors will be taken into account (see the 'Making decisions' section).

In addition to the imposition of a penalty, we expect the underlying breach to be remedied. Other action may follow the imposition of a penalty, including investigation and exercise of other powers which may result in further penalties if there is continued non-compliance.

There is no financial interest for the regulator as the monies collected from penalties are paid over to HM Treasury.

⁷
For example, under regulation 28 of the Occupational Pension Schemes (Charges and Governance) Regulations 2015.

⁸
In cases where the question as to whether a penalty should be imposed, and if so, the amount, is a reserved regulatory function to be decided by the Determinations Panel (under section 10 of the 2004 Act).

Discretionary penalties

We may impose penalties, including under section 10 of the Pensions Act 1995 and regulation 28 of the Occupational Pension Schemes (Charges and Governance) Regulations 2015.

The maximum amount of a penalty under these provisions is £5,000 in the case of an individual and up to £50,000 in any other case. In respect of certain Penalty Notices issued to trustees the notice must specify the joint and several liability of the parties to whom it is issued.

Mandatory penalties

The Occupational Pension Schemes (Charges and Governance) Regulations 2015 require us to issue a mandatory penalty where we receive an indication in the scheme return or otherwise form the opinion that there has been a failure to prepare a chair's statement.⁹ A Penalty Notice will therefore be issued where we become aware of the breach via the scheme return, or form the opinion that there has been a breach through a whistle blowing report and/or investigatory work. We have no discretion not to issue a Penalty Notice in these circumstances. The fact the penalty is mandatory reflects the importance and significance of compliance.

Trustees will be required to confirm on each scheme return that they have prepared a chair's statement within the statutory timeframe. In forming the opinion that there has been a breach following a whistle blowing report and/or investigatory work, we will consider all the available evidence and undertake further investigation as necessary.

If the scheme return is not completed, we will take appropriate action to ensure that we obtain the information we need in relation to the scheme and to ensure that trustees are complying with their obligations more generally. This will include making further enquiries about whether trustees have complied with the chair's statement and charge controls requirements, as well as whether trustees are complying with their other obligations. This may lead to enforcement action, including a mandatory penalty for failure to prepare the chair's statement.

The amount of a penalty for a breach of the chair's statement requirement is set between £500 and £2,000. Where there is more than one trustee, the Penalty Notice must be issued to all trustees and must state that they are jointly and severally liable for the penalty.

⁹ Regulation 28(2) of the Occupational Pension Schemes (Charges and Governance) Regulations 2015.

The amount of the penalty will generally be calculated as follows:

- ▶ All schemes receive the minimum penalty of £500.
- ▶ The minimum penalty of £500 will increase by 10p per member with money purchase benefits (where a scheme has different sections or a mixed benefit structure), up to the maximum of £2,000.
- ▶ Where a scheme has previously breached the requirement to prepare a chair's statement within the last three years, the per member penalty element will be doubled, up to the statutory maximum.
- ▶ Where the scheme has a professional trustee in place the penalty will generally be £2,000.

We will use the last membership data provided by the trustees on Exchange in determining the amount of penalty.

There may be cases where there are extenuating circumstances, meaning that we need to consider whether the penalty amount determined in accordance with these factors is reasonable. However the penalty will always be a minimum of £500 as required by legislation. When we are notified of extenuating circumstances, we will consider them on a case by case basis.

Joint and several liability

Where a Penalty Notice is issued on the basis of joint and several liability, it is for the relevant parties on whom the penalty has been imposed to agree how the penalty will be apportioned between themselves. We would generally expect the penalty to be paid in a single payment.

Breaches by bodies corporate

Where a corporate entity (eg a company or Scottish partnership) is in breach it will be usual practice to impose the penalty on the corporate entity where the breach resulted from its activities.

However, under some of our penalty powers (including section 10 of the 1995 Act and regulation 28 of the Occupational Pension Schemes (Charges and Governance) Regulations 2015), where a breach has been committed by a corporate entity and is attributable to the consent, connivance or neglect of any officer¹⁰, that person can be liable to be the subject of the Penalty Notice.

10
'Officer' means:

- ▶ in relation to a body corporate, (i) any director, manager, secretary, or other similar officer of the body, or a person purporting to act in any such capacity, and (ii) where the affairs of a body corporate are managed by its members, any member in connection with his functions of management, and
- ▶ in relation to a Scottish partnership, the partners

Where we have evidence that individual officers are culpable, we will impose the penalty on, or make a recommendation to the Determinations Panel about, who we consider to be the most appropriate person (ie the corporate entity or individual officer(s)). In respect of a particular breach, we may only require the corporate entity or individual officer(s) to pay a penalty – we may not require both to do so.

A penalty will only be imposed where there has been a failure to comply with statutory requirements. We recognise that some corporate trustees may be structured in such a way that they do not have any assets and may not wish to alter this position (for example, to remain dormant for corporation tax purposes). The fact that a corporate trustee has no funds does not exempt it from paying penalties imposed under pensions (or indeed other) legislation where it has failed to comply with statutory requirements. Penalties imposed on a corporate trustee must be met by or on behalf of the corporate trustee.

Hardship

We may take into account representations made by a person in relation to a financial penalty that payment of the penalty amount within the period specified would result in undue financial hardship. Where the Penalty Notice has been issued to more than one person on a joint and several liability basis, hardship will generally only be considered where it is claimed by all the recipients of the notice.

It will be the responsibility of the person(s) claiming hardship to provide supporting evidence for their claim.

Civil recovery

We are responsible for collecting all penalties. When we issue a Penalty Notice we give a reasonable timeframe to pay (at least 28 days). Where the Determinations Panel imposes a penalty, it must be paid within 28 days from the date of the Penalty Notice. There are a number of ways to pay, including by cheque or BACS/CHAPS. We expect full payment but, depending on the circumstances, may exceptionally agree to a payment plan. We will issue a receipt in all cases.

If the debt remains outstanding and no payment plan is in place or an agreed payment plan is not being adhered to, we may initiate civil proceedings through the courts to recover any unpaid penalty debt. This may include instruction of bailiffs. In either case, we will seek to increase the costs and interest to be repaid in addition to the unpaid penalty debt.

Publishing our enforcement activity

We put great emphasis on preventive actions, providing guidance, and helping to encourage and build good practice in collaboration with the regulated community. In that context we believe that publishing the outcomes of our work helps to improve standards and drive good member outcomes by raising awareness of the risks where schemes are poorly managed. Any decision to publish information about our considerations in a particular case under section 89 of the 2004 Act will be taken on a case by case basis, in line with our publication policy.

Annex

Procedure for exercising a power under the Occupational Pension Schemes (Charges and Governance) Regulations 2015 ('the 2015 Regulations')

Commencement of regulatory action

Following consideration of the scheme return information and/or any information obtained during our investigation, we may issue a Statutory Notice in accordance with the 2015 Regulations. We will determine the appropriate recipient(s) of the notice and serve it on those identified person(s) in accordance with the requirements of the 2015 Regulations.

Statutory Notice (Penalty Notice, Compliance Notice, Third Party Compliance Notice)

A Compliance Notice is a notice issued to a person requiring them to take, or refrain from taking, such steps as are specified in the notice. We may specify a timeframe for those steps to be taken.

A Third Party Compliance Notice is a notice issued to a third party requiring them to take, or refrain from taking, such steps as are specified in the notice. We may specify a timeframe for those steps to be taken.

Non-compliance with a Compliance or Third Party Compliance Notice may result in a Penalty Notice being issued.

A Penalty Notice is a notice issued to trustees, managers or third parties requiring them to pay a penalty for failing to comply with requirements introduced by the 2015 Regulations or with a Compliance Notice or Third Party Compliance Notice.

The notice will specify the provisions that have not been, or are not being, complied with, or, in the case of a Third Party Compliance Notice, the failure to which the notice relates. It will state whether we are:

- ▶ in receipt of an indication of a breach
- ▶ in receipt of an indication that trustees are unable to confirm whether they are complying or will be able to comply, or
- ▶ are of the opinion that a breach has occurred

Third Party Compliance Notices will state the matters which we believe constitute the failure by the third party. The evidence on which an opinion is based will be set out in the notice. Penalty Notices will additionally state the amount of the penalty, the date by which the penalty must be paid (at least four weeks after the date on which the notice is issued) and the period (if any) to which the penalty relates.

Statutory review process

If a trustee or other recipient disagrees with the issuing of a Statutory Notice issued under the 2015 Regulations, they can apply for a 'review' of that decision. We will set out the right of review in all notices that we issue as well as how to apply for a review. A review may be requested:

- ▶ online via our website
- ▶ by post (including a completed review application form)
- ▶ by email (including a scanned copy of the completed review application form)

Other documents may also be submitted in support of a review application. These might include records that demonstrate how the recipient(s) has complied with their duties.

An application for a review may be made by the recipient of the notice. Where there is more than one recipient of a notice, any recipient may ask for a review. The application should make clear whether they are requesting a review on behalf of all parties to whom the notice was issued. Where we receive a review application from only one or some of the recipients of the notice, in some cases we may consider it appropriate to notify the other recipients that we have received a review application and invite any additional representations. In some cases we may consider it appropriate to share a summary of the representations received with the other recipients, in which case we will first notify the applicant of our intention. These steps would enable us to consider all representations about a notice in the round where appropriate.

An application for a review must be made within 28 days from when the notice was first issued.

However, where we consider it appropriate, we can carry out a review of a notice at any time up to 18 months after its issue. It may be appropriate for us to do this when new information is received which indicates a notice may need to be varied, substituted or revoked, but the recipient(s) is unable to request a review because 28 days have expired since the notice was first issued.

We will write to the person(s) who made the application when the review has been accepted. We may also ask for additional information. The Statutory Notice will be suspended for the length of time it takes to complete the review.

We will appoint a review officer to carry out the review. This will be someone who has not previously been involved with the decision to issue the notice.

We will usually complete the review within 10 working days of the written notification that the application has been accepted and that a review will be carried out. If this is not possible, we will contact the applicant(s) and advise when a decision can be expected.

We will issue the decision reached by the review officer in writing. The decision will be one of the following:

- ▶ The Compliance or Penalty Notice is confirmed – this means that the original notice or penalty must be complied with in full. We will advise of the new compliance date which takes into account the time we have taken to conduct the review.
- ▶ The Compliance or Penalty Notice is varied – this means that we will issue an amended notice or penalty which contains some new or revised directions and/or a new timescale for compliance. The recipients of the amended notice must comply with the steps and timescales specified in the varied notice by the new compliance date.
- ▶ The Compliance or Penalty Notice is being substituted with another notice or penalty – this means that we will issue a different notice or penalty. The recipients of the amended notice must comply with the steps and timescales specified in the new notice by the new compliance date.
- ▶ The Compliance or Penalty Notice is revoked – this means that the persons issued with the notice no longer need to comply with the requirements. If a Penalty Notice is revoked, we will refund any penalty payments that have already been made.

We may decide not to carry out a review, in which case we will advise the person(s) who applied for the review in writing within three working days of receipt of the application. This is likely to happen if:

- ▶ we cannot identify which notice is the subject of the review application
- ▶ the application was submitted outside of the 28 day period and the information available to us does not indicate that the notice needs to be revoked, varied or substituted
- ▶ the grounds for review are not stated or have already been considered in a previous review
- ▶ there is any other case where we do not consider it appropriate to conduct a review

In this case we will set out our reasons for refusing to conduct the review.

Penalty Notices – making a reference to the Tribunal

If the trustee or third party disagrees with our review decision regarding the issue of a Penalty Notice or the amount payable under the notice, there is a right of making a reference to the Tribunal.

Where we have reviewed a Penalty Notice, or decided not to carry out a review of a Penalty Notice, we will supply details of the Tribunal reference procedure to the recipient of the Notice where applicable.

Under regulation 32 of the 2015 Regulations a reference must be made directly to the Tribunal. A Tribunal reference can only be made once a statutory review has been completed, or if we have informed an applicant that we have decided not to carry out a review.

The Tribunal is responsible for issuing forms and guidance in respect of such references. These are available on the Tribunal website at <http://bit.ly/appealTPR>.

How to contact us

Napier House
Trafalgar Place
Brighton
BN1 4DW

www.tpr.gov.uk

www.trusteetoolkit.com

Free online learning for trustees

www.pensionseducationportal.com

Free online learning for those running public service schemes

Compliance and enforcement policy

for occupational pension schemes providing
money purchase benefits

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