

Regulatory intervention report

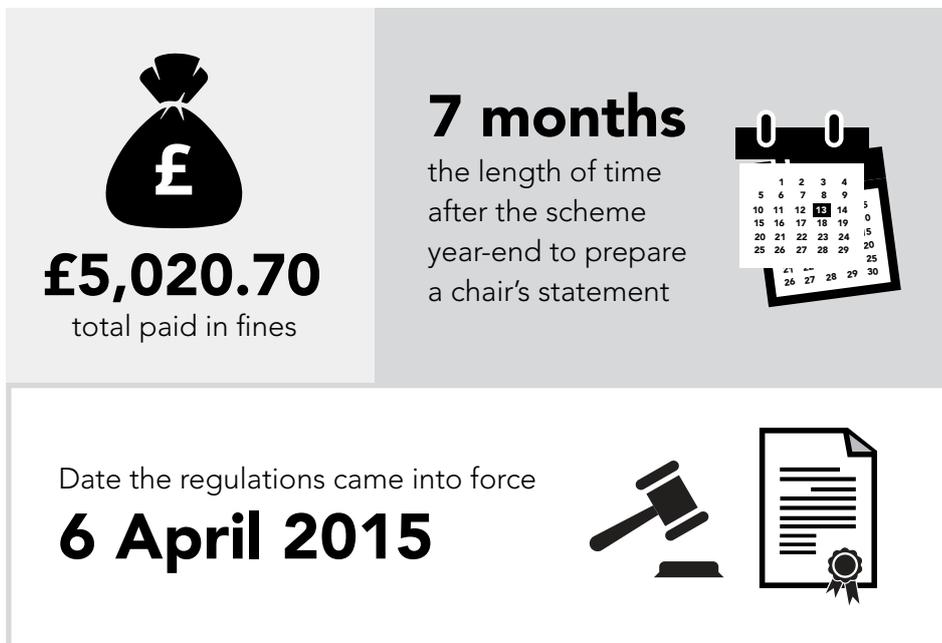
issued under section 89 of the Pensions Act 2004 in relation to fines imposed on the trustee of the Nurture Master Trust and the trustee of the Save & Prosper Personal Retirement Account, Save & Prosper Company Pension Scheme and Save & Prosper Personal Retirement Account Simplified Pension Scheme (together the 'Save and Prosper Funds')

Background

Occupational schemes providing money purchase benefits (also known as 'DC benefits') are required by law to prepare an annual statement, signed by the chair of the trustees, within seven months of the end of each scheme year. This is a requirement introduced by the Occupational Pension Schemes (Charges and Governance) Regulations 2015, which came into force on 6 April 2015.

We are obliged to fine trustees who breach this requirement between £500 and £2,000. Fines are calculated according to the scheme size, any previous failures to prepare a statement, and whether there is a professional trustee in place.

Illustrated summary



Regulatory action

The Nurture Master Trust

As part of our proactive engagement with master trusts, we identified that the trustee of the Nurture Master Trust, MC Trustees Ltd, had failed to prepare a chair's statement for the scheme.

After considering the factors summarised in the Background section above we imposed a penalty of £2,000 on MC Trustees Ltd, a professional trustee. We issued the maximum fine amount allowed by statute on MC Trustees Ltd because it is a professional trustee and there were no mitigating factors which would reduce the amount of the fine. The fine was not contested and was paid in full.

The trustee has since taken action and the required chair's statement has been prepared.

The Save and Prosper Funds

The trustee of the Save and Prosper Funds notified us via their scheme return for each scheme that it had failed to prepare the required chair's statements.

After considering the factors summarised in the Background section above, we imposed a total penalty of £3,020.70 on the trustee for the three breaches. The fines were not contested and were all paid in full.

The trustee has since taken action and the required chair's statement has been prepared for each scheme.

Our approach

Trustees should be aware that we are required by law to impose a penalty where there is a breach of the chair's statement requirement. Our policy for determining the amount of a penalty for breach of this requirement is set out in the 'mandatory penalties' section of our 'Compliance and enforcement policy for occupational pension schemes providing money purchase benefits'.

The Nurture Master Trust case confirms our general approach to such breaches where there is a professional trustee appointed to the scheme, as well as serving as a reminder to all trustees that they need to ensure they are meeting their legal duties. In line with the Trustee Act 2000 and as set out in our defined contribution code of practice, professional trustees are expected to meet a higher standard of care and demonstrate a greater level of knowledge and understanding than trustees who are not acting in such a capacity.

We expect trustees, particularly professional trustees who act as trustee to multiple schemes, to ensure they understand the new legislation and plan ahead to avoid breaches occurring. All trustees of schemes are reminded that they are each legally responsible for ensuring compliance with legal requirements, including the requirement to prepare the chair's statement. All trustees should therefore ensure that they are aware of their obligations and that appropriate action is being taken to secure compliance with legal requirements.

These cases also highlight that where we have concerns about the governance and administration of particular master trusts, we will engage directly with them to understand the governance arrangements including whether their trustees and managers have the requisite skills and experience. If we identify a failure to comply with the law we will consider taking enforcement action and where there is a failure to prepare the chair's statement we are required to issue a mandatory penalty.

Protecting consumers from poorly governed master trusts is one of our priorities in our 2016-2019 Corporate Plan. We expect all master trusts to comply with the requirement to prepare a chair statement in the scheme return.

The regulator's consideration and approach to individual cases is informed by the specific circumstances presented by a case, not all of which are referred to or set out in this summary report.

This summary report must be read in conjunction with the relevant legislation. It does not provide a definitive interpretation of the law. The exercise of the regulator's powers in any particular case will depend upon the relevant facts and the outcome set out in this report may not be appropriate in other cases. This statement should not be read as limiting the regulator's discretion in any particular case to take such action as is appropriate. Employers and other parties should, where appropriate, seek legal advice on the facts of their particular case.

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Nurture and Save & Prosper

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