# Regulatory intervention report

Issued under s89 of the Pensions Act 2004 in relation to the Scottish Teachers' Pension Scheme 2015

October 2018

The Pensions Regulator

This report summarises a case where the Scottish Teachers' Pension Scheme 2015 (the Scheme) failed to provide Benefit Information Statements (BISs) – also known as Annual Benefit Statements – to around 14,000 scheme members. We issued the scheme manager with an Improvement Notice, holding them to the changes they proposed making to the scheme's internal controls and systems to achieve compliance with pensions legislation and prevent a future recurrence.

This is the first time we have issued an Improvement Notice to a public service pension scheme.

# Background

The scheme manager failed to provide BISs to all relevant scheme members for the financial year 2016-2017.

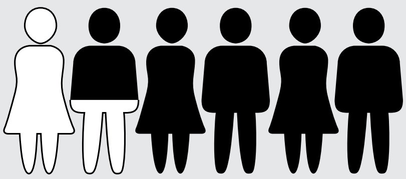
Public service pension schemes have to provide BISs to relevant members each year and within five months of the end of the scheme's financial year, usually 31 August each year. It is the scheme manager's responsibility to do this.

BISs are important as they include vital information about a member's benefit entitlement, which they can use to make important and informed financial decisions, such as when they can retire. The production of a BIS is heavily dependent on a scheme keeping accurate data. Therefore, if a scheme fails to provide BISs, it is often a symptom of wider record-keeping and governance failures.

Most member data is provided to a scheme manager by participating employers. A scheme manager should have a robust process in place to ensure it receives accurate data on time from employers. Data the scheme received in the past should also be corrected as necessary, to ensure it is accurate. This allows the scheme manager to properly calculate member benefit entitlements and inform members what those entitlements are.

Where a scheme manager does not hold accurate and complete member data, we expect it to create a robust and measurable data improvement plan. This plan should enable the scheme manager to improve the quality of the data it currently holds and ensure data provided to the scheme in the future is of good quality.

## Illustrated summary



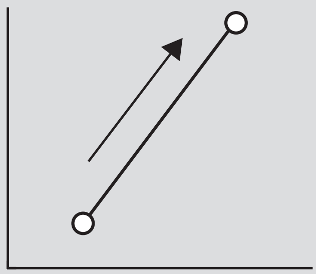
Of

**60,000**

eligible members,

**14,000**

were not sent a BIS in 2016



**67%**

of BISs sent in 2016

> > >

**98%**

of BISs sent in 2018

## Timeline

28 July 2017: Scottish Public Pensions Agency (SPPA) informed TPR of the possibility of a failure to issue BISs to all relevant members

31 August 2017: The scheme sent TPR a breach of law report detailing failure to provide BISs to all relevant members

31 August 2017: Scheme manager sent TPR a plan outlining how and when they would remedy the failings

9 November 2017: TPR formally opened a case to investigate the breach of law

5 December 2017: TPR issued a Warning Notice to the scheme manager

21 February 2018: TPR issued an Improvement Notice

31 March 2018: Time by which the scheme planned to provide outstanding BISs to members, and date for compliance with the Improvement Notice

30 April 2018: 98.7% relevant members provided with BISs.

# Regulatory action

As part of our ongoing work looking at member communications, focusing in particular on producing timely and accurate BISs, we advised those responsible for the governance and administration of all public service schemes that our tolerance for late BISs was reducing and that they needed to make improvements if their data was not in good order.

Following the earlier alerts from the SPPA, on 31 August 2017 we received a breach of law report from the SPPA, which is both the delegated Scheme Manager and administrator for the scheme. The scheme manager is obliged to send us a breach of law report when it identifies a breach it believes to be of material significance. The SPPA informed us that approximately 76% of eligible members in this scheme had been provided with a BIS by 31 August 2017. In the previous financial year, the SPPA had provided around 67% of BISs by 31 August 2016. The scheme has around 68,000 members of which approximately 60,000 are eligible to be provided with a BIS.

Separately, the SPPA voluntarily provided us with its plan for providing the outstanding BISs by 31 March 2018.

We opened a case to remedy the failings and implement a robust approach to prevent the issues from happening again.

Having reviewed the SPPA's initial plan to rectify the problems outlined in the breach of law report, we were satisfied that it was feasible. We also noted the SPPA was taking steps to improve the wider governance and administration of the scheme, including securing employer compliance. However, we had concerns that it would take longer than we thought reasonable to provide the outstanding BISs.

Having previously informed the SPPA about our concerns and intentions, we issued a Warning Notice to the scheme manager on 5 December 2017. This outlined our intention to formally require them to keep to the terms of the plan, and that this would be detailed in an Improvement Notice.

An Improvement Notice directs that a scheme manager (or a scheme trustee for other types of occupational pension scheme) complete a series of steps to rectify failures in the scheme, or to stop taking inappropriate actions, within a specified timeframe.

We issued the Improvement Notice on 20 February 2018 and regularly engaged with the SPPA afterwards to keep track of the steps they were taking to comply by 31 March 2018.

We did not take action in this instance against particular participating employers. This is because we expect the scheme manager to take all appropriate steps to secure employer compliance using robust internal controls, and any powers granted to them by scheme regulations, prior to TPR intervening. In the circumstances we were satisfied that the actions taken by the scheme manager were sufficient in these areas and that it would not have been reasonable or proportionate for us to exercise further powers at that time.

# Outcome

The SPPA worked with us in an open and transparent manner, seeking to find ways to improve the governance and administration of the scheme.

Our collaborative engagement with the SPPA meant we were able to educate them about our expectations, enabling them to produce a robust data improvement plan. As part of this plan, the SPPA started a data cleanse exercise for all categories of member to ensure the member data it already held was accurate.

The scheme manager also reviewed the way it worked with the participating employers. SPPA staff now have extensive engagement with employers, improving both the scheme manager's understanding of the needs of the employers and employers' understanding about their duties to the scheme. The SPPA is continuing to engage with employers as part of its 'business as usual' approach. This course of action has been particularly helpful in understanding the perspectives of both sides.

In order to more effectively review the member data being provided by employers, the SPPA is changing the way it validates the data. This should allow queries to be raised and resolved sooner, reducing the risk of the scheme manager failing in its duties in the future. When working towards avoiding future compliance failings, we expect the scheme manager to prioritise the records of members who have previously been adversely affected so they do not miss out on a BIS this coming year.

Throughout the design and implementation of its plans to improve scheme governance and administration, the scheme manager worked closely with the pension board. The pension board has said the experience has in turn improved its own levels of knowledge and understanding, so it is better equipped to assist the scheme manager in the future.

We consider this case to be a good example of collaborative working between a scheme manager and the pension board, and we encourage other scheme managers to build a similar relationship.

Although the scheme manager was unable to fully comply with the Improvement Notice (achieving 98.7% of the target 30 days after the deadline), we recognised the challenging nature of the last batch of records to be updated. The scheme manager will be prioritising these records for the BISs due to be provided to members this year and this will be monitored by TPR. In the circumstances, we did not consider further regulatory action was proportionate and were satisfied the ongoing work will lead to the necessary improvements.

We continue to work collaboratively with the SPPA to support it with improving the general governance and administration of the scheme. We also welcome the opportunity to continue to develop our wider relationship with the SPPA in providing regulatory oversight.

# General

Where a scheme manager fails to provide BISs, we have the power to compel it to do so. We also have the power to take steps to require record-keeping standards to be improved if it is appropriate to use them.

The scheme manager and other parties (including administrators and members of the pension board) have a duty to report breaches of the law to us, where they believe this is of material significance. We urge them to engage with us in a prompt and open manner, as demonstrated in this case. This allows us to protect member outcomes at an early stage.

A failure to report a breach of law may in itself amount to a further breach of law and can lead to separate possible regulatory action. There is more information about reporting breaches on our website.

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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Scotrtish Teachers' Pension Scheme 2015



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