

Compliance and enforcement bulletin

# Focus on: **chair's statement**

July 2017

The Pensions  
Regulator

## Majority of trustees comply with chair's statement rules

Occupational pension schemes providing money purchase benefits<sup>1</sup> are now required to prepare an annual statement, signed by the chair of trustees, within seven months of the end of each scheme year. This legislation was introduced in 2015, and we've seen high compliance with the requirements so far. Of the approximately 3,000 schemes offering money purchase benefits that were required to declare compliance as part of the 2016 scheme return, 85 failed to prepare a chair's statement and were subsequently fined.



## Ignorance of the law is no excuse

A number of trustees who failed to prepare a chair's statement told us they were unaware of the new requirement. Trustees have a duty to comply with the regulations and maintain sufficient knowledge and understanding of their role, their scheme and the law in order to fulfill their duties and avoid regulatory action.

<sup>1</sup> Other than those arising from additional voluntary contributions

## Trustees of smaller schemes are more likely to fail

A large proportion of the penalty notices we've issued have been against schemes with fewer than 100 members. We would therefore encourage trustees of smaller schemes to ensure they have sufficient knowledge and understanding of their role in order to carry it out effectively. Our website includes straightforward advice and guidance for all types of schemes, and this, along with email communications and the Trustee toolkit, gives trustees the information they need, whatever the size of their scheme. Although smaller schemes are more likely to experience governance problems, we have also fined professional trustees and master trust schemes – see [www.tpr.gov.uk/section-89](http://www.tpr.gov.uk/section-89) for more information about these cases.

## Quality and compliance

It's not enough for trustees, or those completing the scheme return on their behalf, just to declare compliance with the requirements – the chair's statement also needs to meet the standard set out in legislation. The chair's statement is a tool for boards to focus on key areas of governance and administration and provides members with important information, for example on costs and charges.

## Review process

If a trustee or other recipient disagrees with the issuing of a Statutory Notice issued under the 2015 Regulations – for example for failing to prepare a chair's statement or exceeding the charge cap – they can apply for a review. We set out the right of review in all notices, as well as how to apply for one. An application for a review must be made within 28 days from when the notice was first issued.

## Lessons learned from our casework

### Case study 1 – DC scheme that wasn't wound up properly

The trustees of this medium-sized scheme with 542 deferred members confirmed in their scheme return that they had breached the chair's statement requirements. As part of our investigation, the trustee explained that the scheme had transferred out all of the active members into an alternative arrangement a month earlier, with the intention to wind it up within seven months of the scheme year end. However, due to internal resource constraints, the wind-up process did not take place and the scheme remained active.

The regulations require us to issue a mandatory fine where we receive an indication in the scheme return, or otherwise believe that there has been a failure to prepare a chair's statement within the legal timeframe. Winding up a scheme is not a valid exemption from the regulations, and we therefore have no discretion as to whether or not to issue a fine. In this case, we fined the trustee £554.20. The amount was paid in full and the trustee intends to wind up the scheme at least seven months before their next scheme year end.

#### Message to trustees

If you need to close the defined contribution scheme that you run, it must be wound-up efficiently and properly. For further information regarding winding-up your DC scheme, please see: [www.tpr.gov.uk/closing-dc](http://www.tpr.gov.uk/closing-dc). Schemes in wind up, or with ear-marked benefits are not exempt from preparing a chair statement.

## Case study 2: Trustees who incorrectly claimed they had prepared a chair's statement

The trustees of this 68 deferred member scheme stated on their scheme return that the chair's statement had been prepared within seven months of the scheme year end. This contradicted intelligence we'd received, so we opened an investigation and identified that, due to an administrative oversight, the trustees had incorrectly declared their compliance with the chair's statement requirement when in fact they had failed to prepare a chair's statement within the statutory timeframes.

After issuing the penalty notice, the trustee contacted us to request a review of the notice and the fine amount, on the grounds that they had been a trustee for a number of years and had never had to complete a chair's statement in the past. They added that the insurer and their financial adviser had not told them about the requirement before they completed the scheme return. We confirmed the penalty notice as the trustee failed to provide any evidence to suggest they were exempt from the regulations, or any mitigating factors that would justify reducing the penalty.

The trustee subsequently completed the required chair's statement and paid the penalty fine amount in full.

### Message to trustees

You have a duty to ensure you comply with the regulations and ensure that any new or changing legislation, which may affect your scheme, has been considered. You should assess your scheme against the DC code on an ongoing basis which can be found here: [www.tpr.gov.uk/code13](http://www.tpr.gov.uk/code13)

You also need to make sure that the information you give us is accurate – knowingly or recklessly providing false or misleading information is a criminal offence.

## How to contact us

0345 600 1011  
[www.tpr.gov.uk](http://www.tpr.gov.uk)

[www.trusteetoolkit.com](http://www.trusteetoolkit.com)  
Free online learning for trustees

[www.pensionseducationportal.com](http://www.pensionseducationportal.com)  
Free online learning for those running public service schemes

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