

news

TPR - its toolkit, the codes, its guidance

One of the Pensions Regulator's (TPR) main objectives is to promote and improve understanding of "the good administration of work-based pension schemes". Since its inception over two years ago, TPR has become an increasingly prolific writer on a wide variety of pensions issues. But with so much for trustees (and employers) to absorb, here we recap on the range of information now available from TPR.

Trustee toolkit

Background

- The trustee knowledge and understanding (TKU) requirements under the Pensions Act 2004 (PA 2004) came into force on 6 April 2006.
- All occupational pension scheme trustees must have sufficient TKU of pensions and trusts law to run their schemes properly. Trustees must also be conversant with scheme documents.¹
- TPR's predecessor, the Occupational Pensions Regulatory Authority (Opra), first set out the TKU stall in the form of "scope guidance" back in February 2005.
- There are two distinct "scope" documents: one for defined benefit (DB) schemes (including those with defined contribution (DC) benefits); and the other for DC only schemes.

Trustee toolkit

The modules

- TPR has developed its (now complete) free e-learning programme, the "trustee toolkit", with TKU very much in mind.
- It comprises 11 modules which cover the full spectrum of the "scope guidance" including: DB scheme funding; strategic investment; fund management; and running a scheme.
- On completing the programme trustees receive a certificate.

The Codes

Pensions Act 2004 (PA 2004)

- Many of the prescriptive requirements under PA 2004 are drafted on the premise that they will be supplemented by codes of practice (which are laid before Parliament).
- Codes of practice reflect TPR's view of how a "well-run pension scheme would choose to meet the relevant requirements" of PA 2004 and, more generally, by when.
- They are not legally binding as such and there is no penalty for failure to comply. However, a code does have evidential weight which means that TPR (or a court) must take it into account if it is "relevant to what is being decided".

¹ All trustees generally have a 6 month period of grace to get up to speed with TKU from the date of appointment, except for independent trustees and those holding themselves out as having TKU expertise

The Codes

Areas considered

- In total, there are now 10 codes of practice in force and copies of all can be found at: <http://www.thepensionsregulator.gov.uk/codesofpractice/>
- As well as TKU, examples of other topics covered by codes include: DB scheme funding; reporting breaches of the law; putting arrangements for member-nominated trustees (and directors) in place; internal controls; amending past service benefits; and reporting late contributions to DC schemes.

Codes of Practice

Guidance

- TPR sometimes issues guidance alongside a code of practice to expand upon its content, whilst retaining the flexibility to amend the information without Parliament's involvement.
- For example, the guidance dealing with reporting breaches of the law sets out a "traffic light" system for assessing breaches to help would-be whistleblowers decide whether or not to report.

Guidance

Non code-related

- TPR also issues guidance which does not specifically relate to a code of practice but which fulfils a general educational role.
- Such guidance also often describes TPR's approach on a particular matter. A prime example is the guidance on TPR's clearance procedure.²
- A list of TPR's guidance can be found at: <http://www.thepensionsregulator.gov.uk/guidance/subjectlist.aspx>

Conclusion

- Given the sheer volume of information now available, there are inevitable overlaps between documents.
- Trustees and employers (and their advisers) need to bear this in mind when looking to draw together information which TPR may have published on a particular subject.

² This allows parties to seek a binding statement that TPR will not exercise its anti-avoidance powers in relation to a particular corporate event.