

Key Points

- TPR has statutory objectives which include protecting pension scheme members' benefits
- TPR has a broad range of investigative, remedial and anti-avoidance statutory powers
- TPR's stated approach is to educate, enable and enforce
- TPR regularly publishes reports on the considerations given by it to the exercise of its powers and functions

Main sources

- Pensions Act 2004 (sections 1 to 106)

Background

TPR was established on 6 April 2005, replacing OPRA (The Occupational Pensions Regulatory Authority). It was introduced in response to reports that found that OPRA had inadequate powers in respect of matters of compliance, gathering information and other issues.

As a result, TPR has a broader range of powers than OPRA and has developed a risk-based approach to focus its activities and protect members from the greatest risks.

From April 2015, TPR's remit expanded to include regulation of the governance and administration of public service pension schemes as well.

The DWP has recently consulted on the need for members to have greater protection by a stronger more pro-active TPR and enhanced powers for trustees.

What are TPR's objectives?

TPR's objectives are:

- to protect the benefits of members of occupational and personal pension schemes (where there is a direct payment arrangement);
- to promote and improve understanding of the good administration of work based schemes;
- to maximise compliance with automatic enrolment duties;
- to reduce the risk of situations arising that may lead to compensation being payable from the Pension Protection Fund; and
- in relation to its scheme funding functions only, to minimise any adverse impact on the sustainable growth of an employer.

What are TPR's powers?

TPR's powers fall into three broad categories:

- Investigating schemes: gathering information to help it identify and monitor risks;
- Putting things right: acting where problems have been identified; and
- Acting against avoidance: ensuring that employers do not try to evade their pension obligations.

Investigating schemes

TPR collects data on pension schemes via the annual scheme return. Since 6 April 2015, trustees of defined contribution schemes have also been required meet certain TPR-imposed governance standards including submitting an annual chair's

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statement. TPR also receives reports of significant breaches of the law from 'whistle-blowers', and reports of notifiable events from trustees and employers.

Putting things right

TPR's powers include the ability to:

- require a specific action to be taken within a certain time by issuing an improvement notice or a third party notice;
- where there has been a breach of legislation, impose fines and prosecute certain offences in the criminal courts;
- suspend or prohibit trustees who it does not consider to be fit and proper for the role;
- take action, on behalf of a scheme, to recover unpaid contributions from the employer if the due date for payment has passed; and
- make restraining and repatriation orders in relation to a bank account as part of its activities to combat pensions liberation fraud.

TPR is responsible for regulating the funding of defined benefit pension schemes. It has issued a number of statements to explain the approach it takes. TPR may intervene in a scheme valuation if it considers that a funding plan is based on imprudent or inappropriate assumptions.

Acting against avoidance

TPR has power to act against employers' attempts to avoid pension obligations by issuing a Contribution Notice or Financial Support Direction.

TPR regularly publishes reports on the considerations given by it to the exercise of its powers and functions including those mentioned above.

TPR's approach

TPR does not and cannot regulate all schemes directly. It has developed a range of regulatory approaches for influencing behaviour, such as by publishing codes of practice, developing an online toolkit for trustees and publishing strategy and research publications. TPR's stated approach is to educate, enable and enforce.

TPR is careful to not set a 'standard' approach for all schemes to follow as it is important for individual schemes to focus on their specific needs. However TPR's objectives have been set with the aim of helping scheme employers and trustees meet their fiduciary and statutory obligations.

The DWP has recently consulted on whether members need further protection delivered by a stronger more proactive TPR. Suggestions consulted on included:

- requirements for compulsory proactive clearance of corporate transactions;
- fines for transactions having detrimental effects on schemes;
- new information gathering powers; and
- a requirement for consultation with trustees if an employer plans to pay dividends and its scheme is underfunded.

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