

Regulatory intervention report

Issued under section 89 of the Pensions Act 2004 in relation to Local
Government Pension Scheme: London Borough of Barnet Superannuation Fund

July 2017

The Pensions
Regulator

This report summarises a case where the London Borough of Barnet Council, as the scheme manager for part of the Local Government Pension Scheme for England and Wales, failed to submit its scheme return to The Pensions Regulator (TPR). This resulted in a fine of £1,000 following a decision by our Determinations Panel. This is the first time we have fined a scheme manager of a public service scheme.

Background

The managers of public service schemes, like trustees and managers of other registrable schemes, are required to provide us with a document called a 'scheme return', in accordance with section 64 of the Pensions Act 2004. Depending on the nature and size of the scheme, trustees and managers are sent a scheme return notice at least once every three years.

Scheme returns give us a solid understanding of the pensions landscape as a whole, which in turn feeds into identification of risks, education initiatives and policy formulation.

Up to date and accurate data is essential to enable us to carry out our functions effectively. The information in the scheme return also tells us the type of scheme and how many members it has, enabling us to calculate the annual levy that all schemes must pay.

The scheme return asks for up to date contact details for a scheme's trustees or managers and employers, enabling us to communicate with them quickly and effectively. This information is also shared with the Pension Tracing Service so members can search for and secure their pension benefits.

Managers of public service schemes are issued a scheme return notice annually, which summarises the information required and the date it is due (typically, six weeks starting from the date the notice is issued).

Managers and trustees who fail to provide the scheme return by the deadline can be fined up to £5,000 per individual and £50,000 in any other case.



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Regulatory action

On 9 July 2016 we issued a scheme return notice to the scheme manager, which in this case is the London Borough of Barnet Council, requiring the scheme return to be submitted to us by 12 August 2016.

The scheme manager failed to comply with this requirement and, following several further communications from us, the scheme return was still not provided and the failure was referred to the Determinations Panel on 24 February 2017.

The Determinations Panel, which exercises the power to impose a penalty under section 10 of the Pensions Act 1995 on TPR's behalf, considered the case on 8 March 2017. The Panel decided to impose a fine of £1,000 against the scheme manager, taking into account our statutory objectives, which include promoting and improving the understanding of the good administration of work-based pension schemes, and that there are almost 23,000 members in the fund.

Our approach

It is the legal responsibility of trustees and managers to submit a scheme return by the specified deadline. This is one of the most basic requirements for trustees and managers, and we will be concerned if it is not submitted, as this may signal further governance and administration problems within the scheme.

As we consider the completion of the scheme return is a basic administrative responsibility, we will consider issuing financial penalties under section 10 of the Pensions Act 1995 where despite efforts to encourage them, the trustees or managers of a scheme have failed to comply. This applies whether the scheme is a public service scheme or a private sector scheme.

Good scheme governance is a key factor to achieving positive outcomes for members. Our action increases the chances of positive outcomes for members. Where managers and trustees are failing with their basic duties, including in large public service schemes such as this one, we will use the powers available to us to intervene at the earliest indication they are failing to meet the governance standards we expect.

Timeline of events

9 July 2016: TPR issued a scheme return notice to the scheme manager, requiring the scheme return to be completed by 12 August 2016

20 September 2016: The scheme manager called TPR to confirm they had access to the scheme return online and would submit it within a week

29 September 2016: TPR issued a notification of failure to the scheme manager, requiring them to complete the scheme return by 14 October 2016

18 January 2017: TPR issued a warning notice to the scheme manager, explaining our intention to ask the Determinations Panel to issue a penalty notice to the scheme manager for failing to submit the scheme return

24 February 2017: The scheme manager had not provided the scheme return and TPR's case team referred the matter to the Determinations Panel

8 March 2017: The Panel decided to impose a fine of £1,000 against the scheme manager in accordance with TPR objectives as the scheme has nearly 23,000 members and had appeared to have done nothing to secure compliance

13 April 2017: Penalty notice issued after the 28 day window for the scheme manager to refer the determination to the Upper Tribunal had expired

9 June 2017: The scheme manager paid the penalty

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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