

TPR CONSULTATION: DASHBOARDS COMPLIANCE AND ENFORCEMENT

24 FEBRUARY 2023



ABOUT US

The Pensions and Lifetime Savings Association is the voice of workplace pensions and savings. We represent pension schemes that together provide a retirement income to more than 30 million savers in the UK and invest more than £1.3 trillion in the UK and abroad. Our members also include asset managers, consultants, law firms, fintechs, and others who play an influential role in people's financial futures. We aim to help everyone achieve a better income in retirement.

Introduction and summary

The PLSA has long been a supporter of pensions dashboards and believes that alongside clear information on retirement incomes, such as our Retirement Living Standards¹, they will play a central role in supporting effective decision-making by savers. The PLSA is an active member of the Pensions Dashboards Programme's Steering Group and we very much welcome all the hard work done by the Pensions Regulator (TPR) to this point.

We will continue to work with our membership and wider industry to support the staging process of pensions dashboards by providing guidance, webinars and knowledge sharing. The PLSA has also assisted TPR by connecting schemes with the regulator's communication campaign about the staging process.

We welcome the overall pragmatic approach taken in the draft policy. It is clear that TPR wishes for the compliance and enforcement measures to be workable in the face of the well-understood challenges that will be encountered during the staging process. However, as we point out in this response, there are some key areas where further explanation of intent is required. These areas relate to how the regulations will be enforced in more complex circumstances with potential issues that could arise as schemes begin to connect.

Enforcement beyond the scenarios

The inclusion of the scenarios in the annex, which detail how the regulator intends to respond to certain compliance-related situations, is relatively helpful to schemes. These scenarios, which we understand TPR discussed with industry in developing the draft policy, do suggest a suitable degree of discretion. However, they are limited by the fact they outline how the regulator would respond to quite clear-cut cases. It would therefore be helpful for TPR to further substantiate its position as the existing scenarios have raised concerns about the ability of the regulator to investigate potential breaches of compliance. As the scenarios focus heavily on cases of whistleblowing, it is not clear how the regulator intends to monitor compliance when whistleblowers do not come forward. We therefore feel it would be helpful to have some more detail on how else TPR would expect to become aware of any compliance breaches - through monitoring or other means.

While the scenarios provided do indicate how TPR intends to investigate certain breaches of compliance, we feel there could be some more clarity on how it would investigate more nuanced and complex cases. PLSA members have expressed that they would be happy to provide TPR with some examples of additional scenarios, if required. Alternatively, we suggest the draft policy considers four key principles which would provide schemes with more reassurance as to the approach to be taken in certain foreseeable situations:

- ▶ Recognition that faults might not just lie with third party services, but with multiple parties involved in processing find and view requests.

- ▶ Schemes will make attempts to resolve issues in good faith but may struggle to do so in a timely manner. While TPR do suggest pragmatism in the existing scenarios, at what point would they move from a compliance notice to a penalty, where the scheme is making best endeavours to fix an issue?
- ▶ Incorrect data might be returned by a scheme due to incorrect or inaccurate data provided by an employer. As such, this would be out of the hands of the scheme to rectify.
- ▶ In practice, schemes will only surface teething issues with, for instance, matching policies, during testing, by which point they will be bound by the regulations. Therefore, during this phase, schemes need reassurance that they will not be penalised for issues that only become apparent once they start to match data.

Concerns with data matching

We are aware that TPR has made efforts in the past to help ease concerns about data matching. Schemes would welcome further engagement on this as there are several matters still unresolved.

Firstly, schemes must balance GDPR requirements and dashboards duties. Schemes have limited control over the ongoing accuracy of personal data items (i.e. it is maintained by third parties, such as employers, and deferred members themselves). To exemplify this, the largest master trusts (MTs) have thousands of very many small employers, and millions of members. Like all workplace schemes, they are dependent on employers and members to maintain accurate personal information in their records, and this should be reflected in the regulatory approach to dashboards compliance.

Secondly, Find Requests & View Requests will not be tested at scale until after the Dashboards Availability Point (DAP). It is our position that the DAP should be a soft public launch of the pensions dashboards, with either a managed number of users directed to the Dashboard (for example, by age group) or users being able to find the dashboards organically, prior to a hard launch, ideally aligned to a future engagement campaign.

Thirdly, schemes will be obliged, by law, to connect according to the staging timetable. As TPR will no doubt be aware, there are concerns within the industry that the Central Digital Architecture (CDA) will not be ready to accept schemes, especially those connecting first. If schemes are unable to connect as a result of the CDA – and down to no fault of their own - they need assurance they will not be penalised in any way by the regulator.

It is for these reasons that we are requesting the regulator deploys a highly pragmatic and supportive approach to its compliance and enforcement powers on schemes. It is positive that TPR intends to focus on wilful misconduct so we hope that this approach is tolerant to no-fault cases where data matching issues arise. The lack of a ‘grace-period’ in this draft policy reinforces the need for TPR to reassure schemes that, during the connection testing phase, they do not fall foul of compliance through no fault of their own.

Conclusion

The PLSA welcomes TPR setting out their approach to dashboard compliance and enforcement in this consultation. The pragmatic approach taken by the regulator is essential to securing an outcome that delivers a strong framework of compliance and enforcement, whilst also, for the most part, ensuring schemes can practically deliver on what is required of them. Overall, the PLSA has no major disagreements with what is set out. In summary, there are three key points we would like to see more clarity on, and would be happy to engage further on, as the regulator finalises its policy:

- ▶ The first area surrounds how the regulator intends to enforce compliance beyond the limited scenarios provided thus far.
- ▶ The second key point we have raised is on data matching at launch. TPR needs to take a pragmatic approach during the testing and launch stages and also, ideally, provide clarity over acceptable matching rates.
- ▶ Finally, schemes, and especially MTs, would benefit from knowing where the regulator plans to set the bar in terms of data quality, bearing in mind that certain data inaccuracies will remain beyond their control.

The PLSA will be happy to continue its collaborative dialogue with TPR on this policy, and we hope that the above is helpful. Please feel free to get in touch should you have any queries or require any further information.

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