

**The Pension Regulator's consultation document on the revised "clearance" guidance**

A response by

**The National Association of Pension Funds**

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**Overview**

1. The NAPF is the leading voice of workplace pensions in the UK, with over 1300 members, between them providing pensions to over 10 million working people. NAPF Member schemes hold assets of some £800bn.
2. The NAPF welcomes the opportunity to respond to the consultation by the Pensions Regulator. We broadly welcome the new guidelines. We believe they are generally a helpful response to concerns raised and developments in practice since the original guidelines were published in April 2005.
3. Overall, we support the direction the revised guidelines have taken. However, the revised guidance advocates trustees take professional advice and, in paragraph 5 on page 10, acknowledges that it is primarily aimed at professional advisers. While very necessary to assess covenant, this will have substantial cost implications for schemes.
4. Therefore, there could be a case for restricting clearance to events affecting ownership and corporate structure, coupled with an annual – or, at least, regular – review by trustees of the employer covenant. This might be a more appropriate approach than considering each of the wide range of events which the guidance might identify as it arises. And perhaps that regular review could include putting in place mitigating measures if actions or external events have put funding plans in jeopardy.

## **Answers to specific questions**

**Q1 Does the guidance provide a clear enough background to the framework that underpins the process of considering events and the process of clearance?**

5. We found the guidelines to be very clear as to why and how these two processes should take place.

**Q2 Do you feel that you are able to extract the relevant information at a level that is appropriate for you? Is there sufficient technical detail where you feel it is required? Is there a sufficient level of background where it is appropriate for you?**

6. We have read the consultation paper as pensions professionals and may be more comfortable with the technical detail and background than a non-professional trustee. But while we believe the guidelines to be accessible to non-professionals, the implied obligation to take advice if in doubt should help resolve any uncertainty. We anticipate that trustees will use professional advisers more frequently under the revised guidelines in this area than they have done previously.

**Q3 Is the structure and layout of the guidance logical for your needs? Does it enable you to work your way through the process in a way that is logical for you?**

7. We believe that the structure and the layout of the guidelines will support a professional adviser in working through the processes of considering events and seeking clearance in a logical way.

**Q4 Do the updated principles provide sufficient guidance on how to approach the subject? Are there any principles you think apply and that should be added?**

8. We do believe that the principles are appropriate to the business of determining events which are materially detrimental to the ability of a scheme to meet its liabilities. We would question whether every such event should be one which leads to a clearance application and it may be that a future revision of this guidance might include a principle giving more clearance-specific direction.

**Q5 Is the way in which type A events are re-presented clear? Is the more principle-based/judgement-based approach to assessing a type A event explained in sufficient detail to enable an assessment to be made of the impact of an event?**

9. We believe that some trustees will not feel confident in making an event impact assessment without seeking professional advice.

**Q6 Does the guidance provide sufficient information for you to understand when clearance is an appropriate consideration?**

10. We suspect that, because of the need we perceive of the involvement of professional advisers, the guidance may lead to either clearance being sought "just in case" where it may not be necessary or to trustees and companies finding it all too easy to conclude that an event is not type A thereby avoiding the costs attached to assessment and disclosure.

**Q7 Are the sections on employer covenant helpful in assessing detriment?**

11. These sections are particularly helpful in identifying the elements of employer covenant assessment. They could form the basis of a separate guidance note.

**Q8 Does the guidance provide enough information for you to understand which relevant deficit trigger applies to a type A event in which situations?**

12. Yes, it does. But we think it is open to question why the appropriate deficit should be other than the funding standard agreed between the trustee and the employer in cases where the event is not seen as an exception.

**For further information:**

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