

04 March 2015

Helen Gibson,

Policy Directorate,

The Pensions Regulator,

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Dear Helen,

The NAPF welcomes the opportunity to respond to TPR's consultation 'Compliance and enforcement policy for public service pension schemes'.

About the NAPF

The NAPF is the voice of workplace pensions in the UK. We speak for over 1,300 pension schemes that provide pensions for over 17 million people and have more than £900bn worth of assets. We represent both public and private sector schemes, including over 70% of the local government pension funds (LGPS). The NAPF has 72 of the 101 Local Authority funds in our membership. They range from the smallest London Borough to some of the largest, including Greater Manchester and Strathclyde, both of whom has assets under management of over £16bn. In addition the NAPF has 400 business members who provide vital services to pension funds, including the LGPS.

The NAPF response

Overall the regulatory and enforcement policy set out is straightforward and consistent with the way TPR regulates private sector schemes. However, it lacks detail in a number of areas and fails to address concerns raised previously by the NAPF¹ and other industry bodies, in particular the interaction of this regulatory approach with the remit of the LGPS Advisory Board to promote best practice. We believe that further LGPS specific guidance would clarify the intended management of any tensions arising from this interaction. The LGPS is the only funded public sector pension scheme and therefore has a unique status that needs to be addressed in TPR's regulatory approach.

¹ [TPR consultation on regulating public service pension schemes – the NAPF's response.](#)

Question 1 – Does the policy clearly explain our approach to educating and enabling scheme managers and pension boards to improve standards of governance and administration and comply with relevant legal requirements?

We agree that the policy clearly explains TPR's approach.

Question 2 – Is our decision making process and the factors we will take into account when deciding whether or not to take enforcement action in relation to breaches of pension legislation sufficiently clear?

Although we agree that the principles that will underpin your decision making process are appropriate, the true test of whether they will drive effective and proportionate regulation of public sector pension schemes will be in the detail of the assessment tools used. At present detail on these tools is lacking. For example, section 2.3 on risk based prioritisation explains only what is required by the law. A better indication of what criteria TPR will use to assess risk against the features under consideration would be helpful. Similarly, section 2.1 commits the TPR to develop a risk assessment process. Further detail on this is needed to assess its adequacy.

Furthermore, there remains a lack of clarity on the interface between the regulator's assessment of strong governance and the strong governance of the LGPS' funding position. The way decisions are made regarding the funding position is arguably one of the most important and challenging roles for both the national and local LGPS boards. Some development of how the TPR intends to assess governance arrangements with regards to funding, without regulating the funding position of schemes, and without duplicating the functions of the LGPS boards, would be welcome.

Finally, we welcome the explicit reference to the role of the pension scheme manager in ensuring compliance.

Question 3 - Have we made it sufficiently clear that we expect scheme managers and pension boards to:

1. identify and understand the root causes of an issue which is resulting in poor standards of governance and administration and non-compliance with legal requirements, and
2. develop an improvement plan which will address the root causes of that issue within a reasonable time period, and
3. demonstrate implementation of their plan?

The policy is explicit about the requirement for scheme managers and pension boards to address poor performance relating to governance, compliance and administration. However, if this is intended to be one of the primary purposes of the

policy document, then it would be useful for this point to be made in the opening paragraphs.

Question 4 – We have judged that the approach set out in the draft public service compliance and enforcement policy is not likely to add significant burden to the regulated community. Do you agree that the policy does not place additional costs and burdens on schemes?

We believe that the enforcement policy will place an additional cost on the regulated community. In the LGPS the requirement to staff and support two boards will be a key resource issue with many funds due to an insufficient supply of informed personnel to take on each function and the need for support for each body. Any further duplication of regulatory activity will result in further costs to the scheme, which will ultimately be passed onto the sponsors and the scheme member.

Other comments

The policy mentions the creation of a bespoke statutory scheme return for all public service pension schemes. Further detail on this will be essential in order to assess its merit, particularly in light of the LGPS already having rigorous requirements for its scheme return and the Shadow Advisory Board considering additional reporting requirements for funds in order to assess good practice.

The policy remains undecided on the approach that will underpin on-going thematic reviews of public sector pension schemes. We would welcome an early focus on the LGPS, so that the funded nature of the LGPS can be drawn out in detail and best practice developed accordingly.

On monitoring and reviewing compliance activities (section 2.2) TPR may find it helpful in the case of the LGPS to obtain and analyse information from participating employers in the scheme. The scheme's interaction with these employers will be a key determinant of quality administration and governance standards.

The NAPF would welcome the opportunity to work with TPR to develop this policy to better meet the needs of the LGPS.

Kind Regards,

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