Pensions update

By the end of the year trustees pension scheme data records will need to be completely accurate. **Jennie Kreser** explains what's changed

Congratulations! 30 years ago you joined your employer's pension scheme as a young, enthusiastic and healthy individual. Life has moved on considerably since then. You got married, had a child or two, maybe a dog or cat, even a goldfish for those piscatorially minded. Then it all went a bit pearshaped. Divorced, moved house, moved jobs several times, perhaps lost touch with old friends and work colleagues. You get the idea.

Pension schemes are much like people except they tend to live rather longer. Things change, members come and go, advisers get appointed and unappointed, rules change, the law changes, trustees retire and new ones take on the role. So, over the life of an average pension scheme, things can move on a lot.

One of the most onerous responsibilities of trustees of pension schemes is the duty to keep records to assist in the smooth running of the administration of the scheme. Those duties derive from general trust law principles (meaning trustees should act in a business like way) and also to ensure they act in the best interests of the members and beneficiaries of the scheme. In addition, statute law has supplemented those basic principles where pensions are concerned, particularly, the Pensions Act 1995, Pensions Act 2004 and the Scheme Administration Regulations (Occupational Pension Schemes (Scheme Administration) Regulations 1996 (SI 1996/1715)).

Record keeping

There are several areas where trustees need to keep records – records of their meetings and certain transactions including the winding up of the scheme; provision of information and documents to members; scheme accounts and so on (Pensions Act 1995).

In 2004, those duties were expanded to require schemes to have an internal controls mechanism to further improve scheme administration (Pensions Act 2004). To assist trustees to comply with those new responsibilities, The Pension Regulator issued a code of practice to help explain (if such explanation was really necessary) that internal controls constitute:

- Systems for administration
- Systems for monitoring administration
- Arrangements to follow for security of the scheme assets

If that wasn't quite enough, the regulator then also issued further guidance on the code of practice which focuses on seven key areas which increase the risk to schemes, a major one being poor record keeping. This will come as no great surprise to most readers given the historical perspective I set out at the very beginning of this article. Ask yourself this: do you still have all your bank statements, letters and doctor's appointments from 30 years ago? No? I didn't think so but that's no excuse for your pension scheme. Indeed the whole subject of record keeping is so important that the regulator has issued separate guidance just covering that topic (more of that anon) and it's that issue that the rest of this piece will concentrate on because there's a very important deadline coming up.

The scheme administration regulations are the main source of the detail of the records that trustees need to keep. As far as members are concerned, records must be kept of the following pretty basic (you would think) information:

- Date a member joined
- Contributions paid by or on behalf of the member
- Payments made to a member or other beneficiaries where appropriate
- Transfer of assets from the trustees and the reason why
- Transfer payments to or from another scheme
- Assignments or taking out of insurance policies to or in respect of a member
- Payments made to the employer.

Although the regulations indicate that records need to be kept for at least six years, in reality given the nature of a pension scheme, and the fiduciary responsibilities of trustees, records are often kept for far longer than that. There are significant financial penalties for trustees who fail to comply with the regulations and trustees can be prohibited from acting as trustees in cases of particularly bad failures.

This guidance sets out additional standards of record keeping that the regulator is looking for. It divides the type of data into three areas:

- **Common data** – basic stuff necessary to identify individual members. Not rocket science: name, date of birth and NI number. But you would be amazed at just how often this is missing from member records.
- **Conditional data** – the member data needed to administer their particular scheme. This may of course vary from scheme to scheme based on its structure and it's for the trustees to decide what amounts to conditional data for their scheme.
- **Numerical data** – this is what is needed to put the other two data sets into perspective.

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Data cleansing

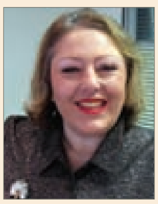
So what is this deadline all about? Well, essentially in June 2010, the regulator got a bit fed up hearing about poor record keeping despite its well-intentioned help and decided to add some teeth. In an update to the record keeping guidance, a timetable introduced targets to achieve those standards by December 2012. In summary, common data created after June 2010 must be 100 per cent accurate and complete. Common data created before that date must be 95 per cent complete. Standards for conditional data need to be set by trustees but expectations are that the standards will be set very high with the regulator not accepting weak excuses.

Any deficiencies identified must have an action plan to rectify them in place by the end of 2012 and once rectified, member checks must be subject to annual review thereafter. Now while this may not sound that bad if you have say a 50 member scheme (how hard can it be to check 50 records) remember that over the years there may well have been a thousand members of that scheme. And if you have a significantly larger scheme, 3,000+ for example, just think how many records that may involve which need to be checked, analysed and confirmed. Remember also that many historical records will not be on any computer system. Paper records have a tendency to get lost or be illegible with time – assuming they were legible to start with – and computer systems are not infallible. Operator error is many a cause of GIGO – garbage in, garbage out.

Many trustees may be familiar with data cleansing exercises and will appreciate just how time consuming and dare I say it, expensive, such exercises can be. In theory, once these arrangements are properly enshrined, it should make such exercises easier since the data will be clean at all times but let's get there first. The regulator can impose penalties for failure to comply but hopefully will take a pragmatic approach to begin with, especially where the cunning plan to rectify problems is being addressed.

And it's not forgotten DC schemes either. In November 2011 the regulator published a statement covering principles for good DC Governance too (Six Principles for Good Workplace DC – Statement of the Pension Regulator November 2011) setting out what it intends to do to find its place in fulfilling its statutory objectives with respect to DC pension provision. Cynics might suggest that this is more to do with ensuring its survival in a changing pension landscape than laying out good practice, but that's probably a tad unfair.

So if you're a scheme trustee, or advising a scheme, make sure you get this issue at the top of your agenda. It's not too late, but the clock is ticking.



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