

Making notifiable events easier

June 2016

Introduction

Certain specified events that may have an impact on the security of scheme members' benefits must be notified to the Pensions Regulator. These are known as notifiable events. The aim is to ensure that the Pensions Regulator receives an early warning where a scheme may be at risk of falling into the Pension Protection Fund.

The notifiable events regime applies to all occupational pension schemes that provide defined benefits except:

- schemes that do not pay Pension Protection Fund levies; and
- schemes that started to wind up before 6 April 2005.

Which events are notifiable?

Some events always have to be notified, others only if a condition (Condition A) is met. Condition A is met if:

- the pension scheme is underfunded on the PPF valuation basis; or
- in the last twelve months, the trustees have (or should have) reported to the Regulator any failure by the employer to make payments to the scheme in accordance with the schedule of contributions.

All events notifiable by pension scheme trustees and participating employers are set out in the table overleaf. Similar requirements also apply to guarantors under a withdrawal arrangement.

How should these events be notified?

Notification must be made in writing as soon as reasonably practicable. Notifiable events can be reported online to the Pensions Regulator using [Exchange](#).

Penalties

If schemes do not comply with their duties, the Regulator may impose a fine of up to £5,000 for individuals and up to £50,000 for a company.

Tips for trustees and employers

- The duty to notify overrides any duty of confidentiality. However, it is sensible for trustees to try to ensure that any confidentiality agreements they enter into expressly allow them to disclose information to the Regulator where this is required under the notifiable events regime.
- Trustees and employers should ensure that there is a mechanism in place to deal with the timely identification of any requirement to notify. They should also ensure that the duty to notify has been appropriately delegated so that events can be notified as soon as possible.
- Even if an event isn't notifiable, it may still call for action by trustees or employers. Certain events need to be reported to the Regulator under the whistleblowing regime. There will also be times when it is advisable for trustees or employers to seek clearance from the Regulator.

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Notifiable Events

| Event | Who notifies? | Always notifiable? | Notifiable only if Condition A is met? |
|--|---------------|--------------------|--|
| Trustees decide to take steps which might lead to a debt not being paid in full to the scheme (provided the debt is more than 0.5% of the scheme assets) | Trustees | | ✓ |
| Trustees decide to make or receive a transfer payment with a value that exceeds 5% of their scheme's assets (or £1.5m if less) | Trustees | | ✓ |
| Trustees decide to grant benefits on more favourable terms than in the scheme rules (without obtaining actuarial advice or without obtaining additional funding from the employer where this was advised by the actuary) | Trustees | ✓ | |
| Trustees decide to grant benefits to a member the cost of which exceeds 5% of the scheme assets (or £1.5m if less) | Trustees | | ✓ |
| Trustees decide to enter into any flexible apportionment arrangement or a retrospective scheme apportionment arrangement | Trustees | ✓ | |
| An employer decides to take steps which might lead to a debt not being paid in full to the scheme | Employer | ✓ | |
| An employer decides to cease business in the UK | Employer | ✓ | |
| An employer is advised that it is trading wrongfully or a director of the employer is aware that the employer is likely to go into insolvent liquidation | Employer | ✓ | |
| An employer breaches a banking covenant (except where the bank agrees not to enforce the covenant) | Employer | | ✓ |
| A controlling company decides to relinquish control of an employer | Employer | | ✓ |
| The director of an employer is convicted for an offence involving dishonesty | Employer | ✓ | |

Further reading

The Pensions Regulator has published a [code of practice](#) and a [framework document](#) on notifiable events.



This note does not constitute legal advice. Specific legal advice should be taken before acting on any of the topics covered.

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