

# Review

## Pensions



## Record keeping: prevention is better than the cure

The Pensions Regulator's focus on governance continues. Last week saw the publication of e-learning modules for trustees on pension scheme record keeping. The Regulator is also consulting on proposals for regulations to improve standards of record keeping, with the promise that this will be a key focus throughout 2010 and beyond. The Regulator's 2009 governance survey showed a lack of awareness amongst trustees of the existing record keeping guidance, and less than half of schemes surveyed were very confident that they had appropriate internal controls in place to mitigate the risks from 'errors in scheme administration'. The Pension Protection Fund and the National Insurance Services to Pensions Industry are encountering significant problems with poor member data, and the Financial Services Authority is supporting the Regulator's stance. The clear message is that more needs to be done. The Regulator will undertake sampling of scheme data to assess the extent of data problems, and will decide at the end of this year whether further measures are required.

### COMMON SENSE

Maintaining accurate and up to date records is in everybody's best interests. Inaccuracies on an individual member level lead to trustees, employers and advisers all investing time (and money) in correcting errors and dealing with complaints. Inaccuracies on a scheme wide basis may feed into actuarial valuations in defined benefit schemes, and may, for example, lead to incorrect monies being held in members' accounts in defined contribution schemes. Add all of this together, and trustees end up with problems that are difficult to unravel but would have been relatively easy to prevent.

### DATA PROTECTION

Trustees are the 'data controllers' in relation to scheme members' data, which means that they are responsible for ensuring that their data processors (for example their appointed pension administrators, auditors or consultants) are maintaining complete, accurate and up-to-date records of members' personal data on their behalf. Trustees should be certain that they are and remain compliant with their obligations under the Data Protection Act 1998. Compliance is paramount, not least because the Information Commissioner (who is the data protection regulator) will gain powers to impose significant fines of up to £500,000 for serious breaches of the Act from April this year.

Trustees should ensure that those holding and processing data on their behalf are carrying out their tasks with the utmost diligence and are not placing the trustees in breach of their regulatory obligations. This risk can only be mitigated if trustees have the right provisions in any service agreements to ensure that data management processes are compliant with regulatory requirements, and to require their data processors to take remedial action where there are any shortfalls.

### NEXT STEPS

In its consultation document, the Regulator proposes that trustees should have controls and systems in place to capture and record all new data accurately. Schemes should also assess the quality of their historic/legacy data and, if necessary, plan to improve this by the end of 2012.

We suggest that trustees add the issue of record keeping to their next meeting agenda to ensure that all trustees are aware of the existing requirements. Trustees should understand the data controls in place for their scheme and should seek reassurance where necessary from data processors. Trustees should also make pragmatic plans for assessing the quality of legacy data. A good place to start might be by looking at complaints received to assess any common themes that may derive from inaccurate or incomplete data.

---

## FURTHER INFORMATION

If you would like more information please contact one of the following or your usual pensions contact.

### **Catherine McKenna**

Head of Pensions  
T: +44 (0)113 284 7045  
E: catherine.mckenna@hammonds.com

### **Francois Barker**

Head of Birmingham Pensions  
T: +44 (0)121 222 3584  
E: francois.barker@hammonds.com

### **Steve Southern**

Head of Manchester Pensions  
T: +44 (0)161 830 5172  
E: steve.southern@hammonds.com

### **Wendy Hunter**

Head of London Pensions  
T: +44 (0)207 655 1119  
E: wendy.hunter@hammonds.com

### **Emma King**

Head of Pensions Disputes  
T: +44 (0)121 222 3103  
E: emma.king@hammonds.com

---

## WWW.HAMMONDS.COM

If you do not wish to receive further legal updates or information about our products and services, please write to: Richard Green, Hammonds LLP, Freepost, 2 Park Lane, Leeds, LS3 2YY or email richard.green@hammonds.com.

These brief articles and summaries should not be applied to any particular set of facts without seeking legal advice. © Hammonds LLP 2010.

Hammonds LLP is a limited liability partnership registered in England and Wales with registered number OC 335584 and is regulated by the Solicitors Regulation Authority of England and Wales. A list of the members of Hammonds LLP and their professional qualifications is open to inspection at the registered office of Hammonds LLP, 7 Devonshire Square, London EC2M 4YH. Use of the word "Partner" by Hammonds LLP refers to a member of Hammonds LLP or an employee or consultant with equivalent standing and qualification.