Published on *The National Law Review* https://natlawreview.com

But sir, my dog ate the scheme accounts!

Article By:

International Trade Practice at Squire Patton Boggs

Four trustees of an occupational defined benefit pension scheme have been fined £500 each by the Pensions Regulator (TPR) for their failure to obtain audited scheme accounts on time without reasonable excuse.

This is the first fine of this type, and follows TPR's announcement in 2017 that it was going to be "clearer, quicker and tougher" in exercising its regulatory powers.

Legislation requires trustees to obtain audited accounts within 7 months after each scheme year end. In this case, the trustees had failed to obtain audited scheme accounts on time for two consecutive scheme years ending 5 April 2015 and 5 April 2016.

In November 2016 (just after the deadline for completing the 2016 accounts, and over a year after the 2015 deadline), a breach of law report was made to TPR in relation to both the 2015 and 2016 accounts. There followed a series of further delays, and the 2015 accounts were eventually completed a further 10 months later, in September 2017 (nearly two years late). The 2016 accounts remained outstanding as at the date of TPR's determination.

The trustees gave TPR a catalogue of excuses for the delays, including a lack of trustee training and the fact that the chair of trustees was often out of the country. TPR was not satisfied that any of the reasons given amounted to a "reasonable excuse" under the legislation. TPR's determinations panel found that the trustees had "treated their trustee obligations as a low priority", and criticised them in particular for not attempting to rectify the position promptly after first reporting the breach of law.

In its determination, TPR highlighted that its ability to carry out its regulatory functions effectively depends on it being provided with scheme information on time, via annual audited accounts and scheme returns. It also reminded trustees of the potential wider consequences of a breach of their duties – the actuary to the scheme in question has apparently already warned TPR that he may need to make a further breach of law report, as the delays in finalising the 2016 accounts have affected completion of the scheme's upcoming actuarial valuation.

A further note of caution is that individual trustees cannot escape regulatory action by stepping down from the board: in this case, one of the scheme's trustees had resigned in September 2016, but TPR considered the breach in relation to the 2015 accounts to be sufficiently serious on its own that he should be fined the same amount as the other trustees.

This determination is a salutary warning for all trustees that TPR is not prepared to tolerate avoidable lapses in governance. Although, going back to the title, we are not sure where “dog-eaten accounts” would actually rank in terms of “reasonable excuses” – we believe that this line of argument is currently untested with TPR.

Alexandra Heggie contributed to this post.

© Copyright 2025 Squire Patton Boggs (US) LLP

National Law Review, Volume VIII, Number 44

Source URL:https://natlawreview.com/article/sir-my-dog-ate-scheme-accounts