

# **Regulatory intervention report**

issued under section 89 of the Pensions Act 2004 in relation to fines imposed on trustees of the Salvus Master Trust: Gowling WLG Trust Corporation Limited, Able Governance Ltd, Clark Benefit Consulting Ltd and Mr Steve Rumbles

## Background

Trustees are required by law to process core financial transactions in their scheme promptly and accurately. This includes processing and investing the contributions received from employers, which we expect to be done without delay.

In January 2017, the trustees of Salvus Master Trust reported to us that there had been a failure to invest pension contributions received since 2014, which affected over 9,000 individual members and £1.4m of contributions. They told us that the problem arose from issues with their manual process for allocating contributions. This represented a failure by the trustees to comply with their obligation under Regulation 24 of the Occupational Pension Schemes (Scheme Administration) Regulations 1996.

At the same time as they informed us about the failure, the trustees also provided details of their plans to address both the failure to invest pension contributions and historic administration problems with the scheme.

## Illustrated summary



## Regulatory action

From January 2017 we had regular contact with the trustees and scheme administrator, to make sure that they were making progress to address the unallocated contributions.

In September 2017 we issued a penalty notice to the trustees of the scheme who were in place between 6 April 2015 (when the regulation requiring trustees to process core financial transactions promptly and accurately came into force) and 17 October 2016. We chose this timeframe because each penalised trustee had responsibility to comply with Regulation 24 and took no action to rectify the breach.

We decided it would be unreasonable to include breaches after this date as it would have involved penalising a trustee who joined the board on 18 October 2016 and who had very little time, between then and January 2017 when the breach was reported, to take any action. We do not want to discourage prospective trustees from joining schemes, particularly where they are seeking to improve scheme governance.

## Outcome

The trustees cleared all unallocated contributions and had implemented a solution to address underlying issues by September 2017. They also put in place a plan to address any losses to members caused by their failure to invest member contributions. This included putting all affected members into the position they would have been in had the failure to invest not occurred. We concluded that, while the trustees had made significant progress to resolve the issues with the administration of the scheme and to ensure members did not lose out, the breach had persisted since April 2015 and was serious enough for us to apply a penalty of £5,000 against the relevant trustees. This penalty was for the trustees' failure to ensure the pension contributions were properly allocated.

## Our approach

Trustees should be aware that we can impose a penalty on them if they breach Regulation 24. We expect the trustees of all DC schemes to comply with the requirement to process core financial transactions promptly and accurately.

While the time frame for processing scheme transactions is not explicitly defined in regulatory guidance, we expect member contributions to be invested without delay which, in this case, did not happen.

Our policy for determining the amount of a penalty for a breach of this requirement is set out in our monetary penalties policy. Because there was an individual trustee in place during the period of the penalty notice as well as the three corporate trustees, the fine was limited to a maximum of £5,000

## Timeline

January 2017: Trustees advise us that there are approximately £1.4m of reported unallocated contributions due to issues with their manual process for allocating contributions

February 2017: Administrator confirms that 978 employers are affected

March 2017: Trustees advise that the issues with their manual process have affected payments from October 2014 to date

July 2017: Case team confirm they are considering enforcement action in respect of the unallocated contributions under Regulation 24

September 2017: Trustees confirm the reconciliation process is complete and is now business as usual through their new automated system

September 2017: TPR issues a penalty notice for the breach of Regulation 24 to trustees who were in place between April 2015 and October 2016

October 2017: Trustees submit an application for review of the penalty notice

November 2017: TPR upholds the penalty notice. The trustees pay the fine.

The regulator's consideration and approach to individual cases is informed by the specific circumstances presented by a case, not all of which are referred to or set out in this summary report.

This summary report must be read in conjunction with the relevant legislation. It does not provide a definitive interpretation of the law. The exercise of the regulator's powers in any particular case will depend upon the relevant facts and the outcome set out in this report may not be appropriate in other cases. This statement should not be read as limiting the regulator's discretion in any particular case to take such action as is appropriate. Employers and other parties should, where appropriate, seek legal advice on the facts of their particular case.

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Salvus Master Trust

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