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### DB consultation: what will a stronger Regulator mean for trustees?

Sacker & Partners LLP (Sackers), the UK's leading specialist law firm for pensions and retirement savings, has responded to the Department for Work and Pensions' (DWP) consultation, *Protecting Defined Benefit Pension Schemes – A Stronger Pensions Regulator*, which closed on 21 August.

**Faith Dickson, partner at Sackers, commented:** “We welcome the DWP’s proposals and their efforts to create a stronger Regulator. In our view, the key to success will be to focus on making sure that their powers are clear and that they can be used quickly, to ensure that the new regime operates as intended.

TPR’s powers are set to be considerably strengthened in three core areas:

- **Notifiable events framework** - while the proposals may have captured certain recent high-profile cases, we would question if they will provide the broader early warning system that is needed. The key here is for any changes to enable trustees to access information more quickly, which in turn should lead to better communication between employers, TPR and trustees.
- **Declaration of intent** - in an ideal scenario, open dialogue and information sharing will already be in place where possible. But there is a risk that for some employers the proposed requirement could become just another tick-box compliance routine, with the result that declarations will fail to have the desired impact. In practice, open and timely dialogue between trustees and TPR can be effective in addressing concerns.
- **Improved Regulator powers** - while we recognise that TPR and trustees always having relevant, up-to-date information is difficult to police, we believe that more specific disclosure powers, supported by the proposed new offences, could help strengthen the trustee position when seeking information from employers. When decisions could potentially impact on the employer covenant, such as dividend payments or transactions, it would be helpful for trustees to be able to require underlying information before the events take place, ensuring well-informed decisions. We would also suggest that any new fines would need to be in addition to the existing penalty regime, to genuinely act as a deterrent, and that greater clarity as to when TPR’s powers are to be used is needed.

“This consultation proposes a radical overhaul of TPR’s powers which, if implemented in their existing form, would raise the stakes considerably for all employers and trustees involved in occupational pension schemes. The impact of the new powers is highly dependent on careful and clear drafting, in order to avoid unintended consequences. TPR’s resources and its ability and appetite to use any new powers will also be crucial.”

- ENDS –

**Notes to Editors:**

Sacker & Partners LLP (Sackers) is a top tier commercial law firm specialising in advising DB and DC pension scheme trustees, employers, providers and corporate investors on all aspects of their pension arrangements.

Widely viewed as leaders in the field, Sackers advises more of the UK's top 200 pension funds than any other law firm. Sackers is consistently ranked in the top tier for pensions by both leading UK legal directories (Chambers UK and the Legal 500) and has been for the last twenty years.

Based in London, Sackers provides support to trustee boards, sponsoring employers, providers and Government bodies across a range of areas, including day to day scheme management, funding and investment, risk and litigation.

Sackers is an active member of the Pensions and Lifetime Savings Association and The Association of Pensions Lawyers and is technical legal expert partner to the Pensions Management Institute and PensionChair. Sackers also works closely with TPAS, the SPP, APPT and the Pensions Investment Academy.

Sackers was recently named Pension Lawyers of the Year at the 2018 UK Pension Awards.

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