

JAMIE RICKETTS of **E&O PROFESSIONALS** discusses the value of trustee liability cover as a defence against fraud

LOCKING OUT FRAUD

Over £75m of detected fraud and overpayments have been exposed in the last 10 years by the National Fraud Initiative (NFI) for all participating pension bodies, and more than 100,000 people in the UK are affected by identity theft every year, exemplifying the real threat that schemes, their sponsors and trustees face.

Identity theft and fraud within pension schemes are becoming ever-more prevalent and are a significant threat that many trustees overlook. The role of a pension trustee has always been a challenging one but, in the current pensions environment, given the increased litigation and regulation regarding errors and omissions, schemes closing, in run-off and being sold, trustees are being exposed to even greater risk.

Fraud can affect pension schemes and trustees in a number of ways. Concealment fraud is one of the most common types of fraud affecting pension funds, whereby an individual is receiving a pension of a deceased person. This type of fraud exposes trustees to additional risk as they have a responsibility to protect the assets of the scheme. If a failure in the

administration process neglects to identify this, then trustees are ultimately liable.

Identity theft is another challenging threat to trustees and one that is becoming easier for fraudsters, as information is so easily accessible. Over the past 10 years, 36pc of people paying into a private sector pension have moved house and failed to inform the provider of the new details. This puts the member at risk of their pension details falling into the wrong hands with the potential threat of identity theft. If administrators fail to adhere to the stringent identity check procedures, this again can put trustees at risk, as it is a failure to protect the scheme's assets.

The Fraud Compensation Fund was established under the Pensions Act 2004 to provide compensation to occupational pension schemes that suffer a loss that can be attributable to dishonesty. However, if fraudulent behaviour is directly attributable to the trustee or administrator, or if it is a result of maladministration or failing to adhere to the scheme rules or requirements of the law, the trustees will be jointly and severally liable.



Ricketts: trustee pressure

Often unfamiliar with the full extent of the risks they increasingly face, trustees have rarely taken out any form of professional indemnity insurance and in today's environment it is hard to believe that only 15pc of pension schemes have trustee liability insurance in place.

Despite the name, trustee liability cover actually covers not only the trustees themselves, but also the pension scheme and the sponsoring employer. Broadly speaking, the insurance will indemnify any "wrongful act" committed by the trustee(s), which encompasses an extensive range of actions such as breach of duty, neglect, error, maladministration and misstatement.

Trustees are increasingly under pressure with the threats they face, yet they play an invaluable role in the provision of pensions in this country. Their contribution should not be underestimated, nor the risks they face in today's environment. The very least they should be provided with is the safety net of insurance.

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