

Shape shifters

✔ **Darren Ryder reveals details of The Pensions Regulator's investigation into companies rebranding to avoid their auto-enrolment duties**



A new name and logo can help a business to refresh and refocus on what it wants to achieve and how it wants to do it.

There is nothing wrong with genuine rebranding. It has no impact on an employer's automatic enrolment duties. However, a trend we are investigating involves employers changing their name in an attempt to avoid their workplace pension responsibilities.

A rebranded business remains the same entity and would be liable for enforcement action if there was an attempt to deny staff the pensions they are entitled to, for instance failing to pay in pensions contributions.

Employers who set up 'shell' pension schemes to appear compliant but never pay contributions are a key target for us and employers shouldn't think they can pull the wool over our eyes. We have sources of information coming to us that readily identify those who are evading

their duties. These include information from HMRC and from pension schemes alerting us to missed contributions.

Some employers claim that they have no workers, and yet we can see from our data that they are paying wages, while some others

claim that they are no longer employers – despite the fact that we can see from our records that there are still staff on their payroll.

And then there are those who appear on our radar because they set off alarm bells on more than one of our systems at once. Examples of this are where we can see they have very high opt-out rates, which may prompt us to suspect that they are inducing workers to pull out of their pension scheme, such as by offering them cash upfront instead.

Business advisers should report to us if employers they are working with are breaking automatic enrolment laws. They should also be able to show they've not been involved in the offence. We know of advisers that have assisted employers to breach the regulations. They've not just encouraged employers to break the law, they've facilitated the offence.

A glance back at some of our recent prosecutions shows that we will pursue such third parties to justice. However, we

want to make it easy for advisers to help employers to comply with the law. We need advisers to ensure that employers continue to stay on top of their automatic enrolment duties.

Now that saving into a workplace pension is the norm, employees are becoming more aware of their rights. We are increasingly seeing that workers are willing to blow the whistle on their employer if they think they are not being given the pensions they are entitled to.

We also detect employers failing in their duties through our compliance validation inspections. We've moved away from visiting employers based on geographical location and target employers where we strongly suspect noncompliance – no matter where they are in the UK. Employers who are breaking the law can expect a knock on the door.

Despite the small minority of employers who break the law, most employers want to do the right thing for their staff and successfully comply. However, it's important they continue to stay on top of their ongoing responsibilities so they don't risk a fine. Ongoing duties include assessing staff and ensuring the correct pensions contributions are made.

Every three years, employers must also complete re-enrolment. So far, more than 200,000 employers have successfully completed this task, which includes re-assessing staff who opted out and putting them into a pension scheme if they are eligible. Re-enrolment is an important task because it gives staff who opted out a fresh chance to start saving. We've created a new re-enrolment duties tool on our website to help employers quickly work out what they must do. Re-enrolment is a two-stage process and employers must be sure to carry out their re-declaration of compliance as failure to complete this can lead to a fine.

✔ **Written by The Pensions Regulator director of automatic enrolment Darren Ryder**