

Current Issues in Pensions Seminar

Clearance – the Pensions Regulator's perspective

Speaker: 21 Feb 2008 – London: Fraser Low
07 Mar 2008 – Bristol: Fraser Low
27 Mar 2008 – Edinburgh: Fraser Low
04 Apr 2008 – London: David Unsworth

Agenda

- Clearance – a quick reminder;
- Overview of the draft guidance issued for consultation;
- Outcome of consultation

Clearance – a quick reminder

- A statement from the Pensions Regulator that it will not issue a contribution notice or financial support direction.
- Of consideration to employers and those associated or connected to employers;
- Applies to the event detailed in the application;
- A voluntary process.

Clearance – a quick reminder

- Approach contained in Regulator's guidance;
- Appropriate consideration for *Type A events*. Events which have a financially detrimental impact on the pensions creditor:
 - Change of control;
 - Return of capital;
 - Change of priority;
 - Compromise agreements.
- Trustees have an important role.

The Actuarial Profession
making financial sense of the future

Our experience too date

Initially:

- A high number of clearance applications
- Many were not even eligible for clearance
- Mitigation initially offered often very inadequate

Currently:

- Lower numbers of applications
- Much more complicated transactions

The Actuarial Profession
making financial sense of the future

Consultation draft: key differences

- Re-presented the way in which trustees and employers identify whether an event is materially detrimental (type A):
 - removing Type B and Type C events;
 - dividing Type A events into two categories
 - Employer related – existing type A events + further examples
 - Scheme related – compromises and apportionment
 - A principle-based approach rather than prescriptive
 - Response to concern that the April 2005 guidance is being interpreted more restrictively than had been intended.
 - Focus for trustees and employers should be on the impact of the event.

The Actuarial Profession
making financial sense of the future

Consultation draft: key differences

- Updated the relevant deficit to reflect the environment now, consistent with clearance reminder issued May 2007.
- More information on mitigation.
- Updated guiding principles.
- More information on how to apply and the process of clearance.
- Removed content no longer relevant – for example, on how the Regulator developed its approach to clearance for April 2005.

The Actuarial Profession
making financial sense of the future

Consultation

- Pre-consultation
 - User workshop held in March;
 - Message posted on the website inviting feedback during March.
- Consultation started on 2 September 2007. Closed on 2 November 2007.
- 36 responses received.
- Responses often polarised between trustees and employers but generally positive

The Actuarial Profession
making financial sense of the future

Consultation responses: Main themes

- Principles based approach – welcomed by some but employers concerned by resulting uncertainty. Removal of type B and C events supported;
- Structure – guidance on employer covenant welcomed but concern that overall the guidance was too long;
- Relevant deficit – some respondents commented that this should just be a scheme's technical provisions;
- Proportionality – general message about qualifying behaviours by the need to be proportionate eg mitigation, information sharing;
- Interaction with employer debt regulations – many respondents highlighted that there were several touch points between the draft guidance and the draft regulations issued for consultation in August 2007 by the DWP

The Actuarial Profession
making financial sense of the future

Clearance in 2008

- Employers and trustees should focus on the impact of an event on the ability of a pension scheme to meet its liabilities;
- Principles based approach;
- Appropriate mitigation should be put in place in order to ensure that scheme members are protected where there is material detriment;
- Trustees continue to have an important role;

The Actuarial Profession
making financial sense of the future

Next steps

- Revising guidance now to focus on clearance only;
- Moving employer covenant and governance content to separate guidance;
- Maintaining principles-based approach but will consider other ways to give greater certainty;
- Planned for publication at the end of February.

The Actuarial Profession
making financial sense of the future
