#### The Actuarial Profession making financial sense of the future

## Current Issues in Funding

5 November 2007 Neil Bowden

#### Part 3 (Scheme Funding) Pensions Act 2004

#### What am I going to cover?

- Analysis of roles of Trustees/Employer/Actuary/ Regulator
- Where do the scheme rules fit in?
- · What does the law say about conflicts of interest?
- Legal issues on the horizon?

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The Trustees' role: A recap
<ul> <li>Set the Statutory Funding Objective (SFO) (s222)</li> <li>If SFO not met, prepare a recovery plan (s226)</li> <li>Prepare/review schedule of contributions to meet the SFO by the end of the recovery plan (s227)</li> <li>Prepare/review Statement of Funding Principles (s223)</li> <li>Report to the Regulator (s226 (recovery plan), s227 (schedule of contributions), s228 (failure to make payments), s229 (failure to agree))</li> </ul>
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## The Trustees' role: What legal issues arise?

- Technical provisions: Has prudence been a problem?
- Technical provisions: Changing the assumptions?
- Assessing the Employer covenant: Which Employer?
- What does the Regulator expect: New clearance guidance?

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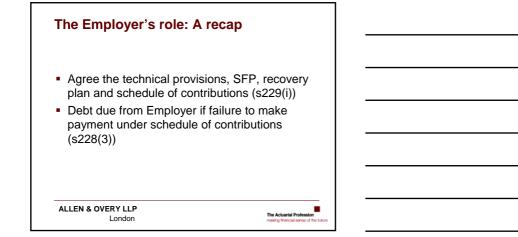
# The Actuary's role: A recap Advise the Trustees on technical provisions, SFP, recovery plan and schedule of contributions (s230) Certify the technical provisions (s225) Certify the schedule of contributions (s227) Whistleblow to the Regulator (s225 and s227)

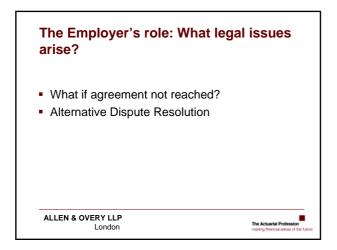
# The Actuary's role: What legal issues arise?

- What are Actuaries certifying?
  - Technical provisions
  - Schedule of contributions
- Contingent security: Funding outside the scheme?

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If there has been a failure by the Trustees, Employer or Actuary to comply with an obligation, the Regulator may:

- Set the technical provisions
- Impose a schedule of contributions
- Modify the scheme as regards future accrual (s231)

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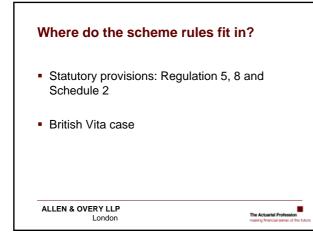
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# The Regulator's role: What legal issues arise?

- What are the Regulator's powers if he does not like what has been agreed?
- On what basis would technical provisions be set?

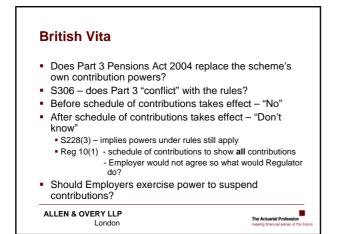
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Rules of the scheme	Effect of legislation
Trustees have power to determine the contribution rate + No other person has the power to reduce or suspend contributions	Trustees required to only consult the Employer
Trustees have power, subject to conditions, to determine the contribution rate + No other person has the power to reduce or suspend contributions	If the conditions are satisfied, Trustees required to only <b>consult</b> the Employer
The contribution rate is determined by, or on the advice of, a person other than the Trustees or the Employer	Trustees must obtain Employer's agreement. Trustees must take into account the recommendat of the other person on the method and assumption for calculating the technical provisions and the preparation of any recovery plan. Additional requirements on certification of schedule – no low than the Actuary would have provided if the Actuar had been responsible for preparing the schedule, statement of funding principles and any recovery p





## **Conflicts of Interest**

Can senior management act as Trustees?

- · Conflicts not inherent in all decisions
- Problem of confidential information: North & South Trust v Berkeley
- Act before there is a problem
- Companies Act 2006 S175
  - 1 October 2008: Board Authorisation?

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