

PPF Restructuring and Insolvency Team

General guidance on insolvency and the Pension Protection Fund assessment period Requirements and expected case conduct for insolvency practitioners

Contents

Abbreviations.....	2
1. Background.....	3
2. What is scheme assessment?	4
3. Actions for insolvency professionals	6
4. Notification requirements under the Corporate Insolvency and Governance Act 2020 (CIGA20)	11
5. Pension scheme trustee creditor rights.....	12
6. Employees and pensioners	13
7. PPF expectations of insolvency office holders and their staff, and further information	14
Appendix 1: Insolvency events	17
Appendix 2: Information IPs should supply if an insolvency event occurs	20
Appendix 3: Information IPs should include in a notification of the scheme status	21
Appendix 4: Events triggering obligation to file a ceasing to act notice under section 122(4)	22
Contact details	24

Abbreviations

IP Insolvency Practitioner or Official Receiver as appropriate

PPF Board of the Pension Protection Fund

R&I Restructuring & Insolvency Team of the PPF

RAA Regulated Apportionment Arrangement

TPR The Pensions Regulator

Unless otherwise stated references in this guidance to legislation are to the Pensions Act 2004 (PA04), as amended from time to time.

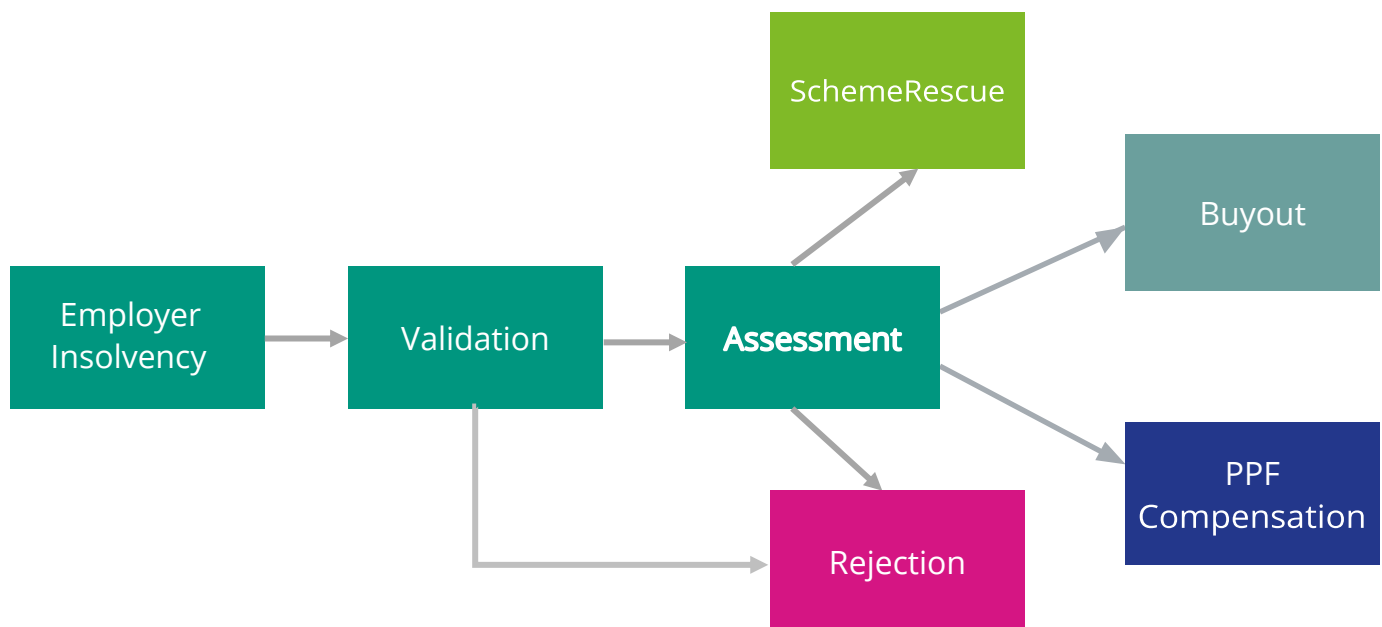
1. Background

- 1.1 The PPF protects millions of people in the UK in case their employer or former employer fails, and the defined benefit pension scheme of which they are a member can no longer afford to pay their promised pensions. If we did not exist, many could face significant financial uncertainty and hardship.
- 1.2 We are accountable to Parliament but operate as an independent organisation and have the freedom to make sure that we are as effective and efficient as possible. We are not publicly funded and rely on a levy on eligible defined benefit schemes for a significant element of our income. The money we receive from the estates of insolvent employers is an important additional source of funds.
- 1.3 Recoveries from the estates of insolvent employers reduce the call on our levy payers, so we are very focused on maximising realisations.
- 1.4 This guide seeks to provide information on how insolvency office holders should interact with the PPF in the event of a sponsoring employer of an occupational pension scheme suffering an insolvency event, and how an eligible scheme will be assessed to determine whether it should enter the PPF. It aims to help IPs to understand their role and responsibilities in relation to an eligible pension scheme going through the PPF's assessment process.
- 1.5 Our intention is to progress schemes through the assessment process as efficiently as possible. That is because our mission statement is to pay the right people the right amount at the right time, and the quicker the assessment period can be completed, the sooner we can start to pay compensation to members of affected schemes.
- 1.6 During the assessment process, IPs play a very important and valued role. It is therefore imperative that they understand when and how to involve the PPF in relation to an employer's insolvency, for example by submitting the notification of the insolvency event. Additionally, they must understand that the PPF assumes the pension scheme trustees' rights as creditors of the insolvent employer by virtue of the Pensions Act 2004, and what the PPF expects of them in respect of the conduct of the insolvency.
- 1.7 We are committed to working closely with IPs and will assign a scheme delivery team member to each pension scheme. That person will provide guidance and direction on pensions and PPF assessment matters. In addition, a R&I case manager will represent the PPF in the insolvency proceedings.
- 1.8 This guide provides IPs with an outline of the stages and related processes. It should be read in conjunction with the detailed guidance we provide on various issues that commonly occur during the insolvency process. There is separate guidance on our approach to employer restructurings.

2. What is scheme assessment?

- 2.1 A qualifying insolvency event will trigger the start of a PPF assessment period. Please see Appendix 1 for a full list of qualifying insolvency events.
- 2.2 Once the PPF has been notified of the qualifying insolvency event, it will check that the scheme is, on the face of it, eligible for PPF compensation. This process is known as validation.
- 2.3 An assessment period is the period during which a pension scheme is assessed to determine whether the PPF should assume responsibility for it. The process is summarised in the diagram below:

An overview of the assessment process

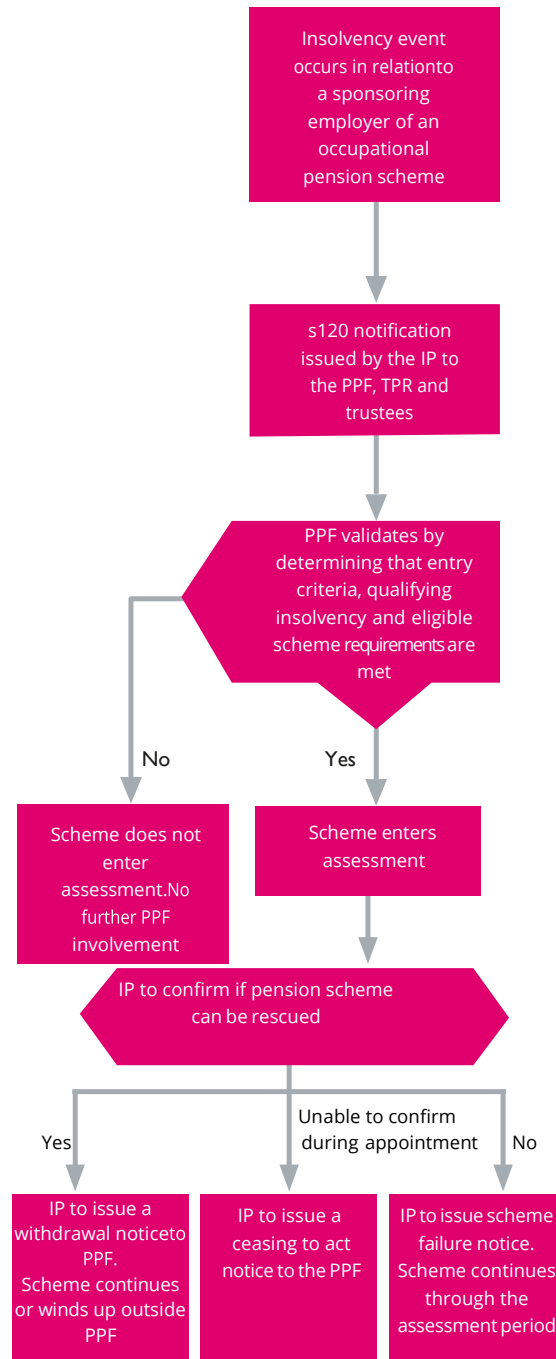


- 2.4 During this period, the pension scheme continues to be managed by its trustees, subject to certain restrictions and controls. It is the trustees' role to continue to communicate with members, and make pension payments where due, taking into account restrictions imposed by the assessment period process.
- 2.5 However, during the assessment period, the rights and powers of the trustees of the scheme in relation to any debt due to them by the employer are exercisable by the PPF to the exclusion of the trustees under section 137 PA04. This means that the PPF exercises the creditor rights in relation to the insolvent employer. If an assessment period ends and the PPF does not assume responsibility for the pension scheme, the creditor rights usually pass back to the trustees.
- 2.6 The exception is a scheme that is authorised to continue operating as a "closed scheme" under section 153, when the PPF will continue to exercise the creditor rights and various other powers in accordance with section 155.

- 2.7 During the assessment period, the PPF's approach is for professional trustees from its panel to be appointed to deal with the scheme. These trustees have a great deal of experience in completing the assessment period tasks and are therefore well placed to achieve the aim of completing the assessment as efficiently as possible. The IP can assist the PPF by using the employer's power of removal and appointment where it is available to them. The IP should contact the PPF as soon as is practically possible so that we can allocate a panel trustee to a scheme.
- 2.8 The PPF will only assume responsibility for a pension scheme where:
- a qualifying insolvency event has occurred in relation to an eligible pension scheme;
 - the pension scheme has not been rescued, for example another entity within the employer group has agreed to take responsibility for the scheme;
 - there has not been a withdrawal event; and
 - the valuation of the pension scheme shows that its assets are insufficient to secure at least the PPF level of compensation.
- 2.9 Where these conditions are not met, the PPF will cease to be involved with the pension scheme once the relevant processes and procedures have been completed, except when the scheme is being run as a closed scheme.
- 2.10 Where the conditions set out in paragraph 2.8 are met, the PPF will assume responsibility for the scheme and compensation will then become payable to its members.
- 2.11 In most cases, an assessment period is likely to last approximately 18 to 24 months, but this can vary significantly depending on the complexity of the financial situation of both the employer and the pension scheme, as well as any action being taken by TPR and the possibility of a pension scheme rescue.

3. Actions for insolvency professionals

Key stages for an IP during the assessment period



Notification of an insolvency event

- 3.1 If an employer of an occupational pension scheme (including a past employer that still has a liability for the pension debt) suffers an insolvency event, the PPF should be informed. A full list of the qualifying insolvency events is set out in Appendix 1, but the most common are administration, creditors' voluntary liquidation, company voluntary arrangement and compulsory liquidation.
- 3.2 The notification requirement relates to any occupational pension scheme, and not just defined benefit schemes that are eligible for PPF compensation. The duty to notify does not require the IP to consider whether the pension scheme is eligible for PPF protection.
- 3.3 It is recommended that the PPF be notified by using a section 120 notice. The IP's statutory obligation to notify is satisfied by providing the information stipulated in regulation 4(2) of the Pension Protection Fund (Entry Rules) Regulations 2005, which are set out at Appendix 2. However, it is easier just to complete the pro-forma or to use the section 120 online submission service.
- 3.4 The notice can be supplied in written or electronic form. It may be signed by someone other than the insolvency office holder, if so authorised. The pro forma notice is available on the PPF's website at www.ppf.co.uk/-/media/PPF-Website/Files/s120-and-S122/PPF-Notice-Form-S120-Insolvency.pdf.
- 3.5 The notice should be sent to each of the PPF, TPR and the pension scheme trustees within 14 days of the insolvency event or, if later, the date on which the IP became aware of the existence of the occupational pension scheme.
- 3.6 If more than one insolvency event occurs in relation to an employer, a notice is required in respect of each event. This is the case even if, for example, a company is moving from administration to creditors' voluntary liquidation in accordance with paragraph 83 of schedule B1 to the Insolvency Act 1986.
- 3.7 If the employer sponsors more than one occupational pension scheme, a notice will be required in relation to each of the occupational pension schemes involved.
- 3.8 In order to help IPs to comply with their statutory obligation under section 120, we have provided an online service, which is available on the PPF's website at www.ppf.co.uk/s120/login.
- 3.9 IPs and their staff are encouraged to use this facility, which enables them to search for schemes and to submit section 120 notices with reduced form-filling.
- 3.10 Entering the employer's name (the name in which it last meaningfully traded), the individual IP registration number and the date and type of insolvency event on the site will usually cause the necessary notice to be sent to the PPF, TPR and the trustees, if the insolvent entity is registered as an employer of an occupational pension scheme. IPs will receive a reply advising them that the notice has been sent or that there is no scheme. In some limited circumstances, our databases will not be able to provide the information necessary for the facility to work. If that is the case, the IP should submit a paper section

120 notice instead.

- 3.11 Although the section 120 search facility is a useful tool, it is no substitute for a full review of the entity's records and the appropriate enquiries of management to check for the existence of an occupational pension scheme.
- 3.12 The PPF needs to be satisfied on two points before it can validate the s120 notice and confirm that an assessment period has begun:
- i. the insolvency event must be a qualifying insolvency event; and
 - ii. the insolvency event must be in relation to an employer of an eligible pension scheme (the criteria of which are set out in section 126 PA04 and regulation 2 of the Pension Protection Fund (Entry Rules) Regulations 2005).
- 3.13 Once the IP has informed the PPF of the insolvency event, the PPF will carry out the necessary validation to satisfy itself that the insolvency is a qualifying event and the relevant eligibility criteria have been met. The PPF will carry out this exercise within 28 days of receipt of the section 120 notice, or if later, receipt of the necessary information about the scheme to establish eligibility.
- 3.14 Where the criteria are satisfied, the PPF will issue a validation notification and will confirm that an assessment period has begun. The start of the assessment period will be the date on which the insolvency event occurred. This date is known as "the assessment date".
- 3.15 The assessment date is a key date in the assessment process and is the date from which any requirements or restrictions placed upon the pension scheme by PA04 apply. This includes the application of the PPF rules to any payment of pensions or benefits. That is one of the reasons why IPs are encouraged to submit section 120 notices as early as possible, and why we are prepared to complain to their authorising bodies if we do not consider that they have met their statutory reporting obligations in relation to a pension scheme.
- 3.16 The situation may be different for multi-employer pension schemes (where there is more than one participating employer). How the situation differs depends on the structure of the pension scheme. More information can be found in the Pension Protection Fund (Entry Rules) Regulations 2005 and the Pension Protection Fund (Multi-employer Schemes) (Modification) Regulations 2005. The IP must notify the PPF of each insolvency event in relation to *each employer participating in the pension scheme*.
- 3.17 When the PPF responds to the section 120 notice, its letter will set out the conclusions it has reached on the available information about the scheme's multi-employer status, where applicable. If IPs are unclear about the impact of this conclusion on the insolvency process, it is recommended that they consult a pension law specialist on the specific aspects of their concerns.

Notification of pension scheme failure, withdrawal or ceasing to act notice

- 3.18 The IP should try to reach a conclusion as to the ability of the employer to support the scheme as soon as possible, and to report this using the relevant form available on the PPF website. Please see www.ppf.co.uk/trustees-advisers/submit-s122-notices.
- 3.19 Unlike section 120 notifications, there is no online portal for submissions, but the forms are available on the website, and a mailbox address is provided for them to be emailed.
- 3.20 If the IP does not intend to use the relevant pro-forma notice, the requisite information can be sent to us in writing. A list of the information that should be included in the notice is provided in Appendix 3. As with section 120 notices, however, all information stipulated in the statute is set out in the pro forma document on the PPF's website.
- 3.21 Notices should be issued to the PPF, TPR and the pension scheme trustees. Once the notice has been received, the PPF will determine whether it can be approved.

Scheme Withdrawal

- 3.22 If the scheme is to be withdrawn from the PPF assessment period, for example because the employer is going to continue as a going concern and remain responsible for the scheme, or another party is going to assume responsibility for the employer's liabilities under the scheme, the IP should file a "Section 122 – Pension Scheme Status Notice (Withdrawal Notice)".
- 3.23 Where a pension scheme withdrawal is confirmed, and after the relevant procedures have been completed and rights of review exhausted, the PPF will have no further direct interest in the pension scheme, and the assessment period will come to an end. The rights of the scheme as a creditor will then revert to the scheme trustees.

Scheme Failure

- 3.24 If the employer does not continue as a going concern and no other party has assumed responsibility for its liabilities under the scheme, there will be no scheme rescue (usually referred to as a scheme failure), for example, because the business has been closed down, or entered liquidation and the employees have been discharged. In these circumstances, the IP should file a "Section 122 – Pension Scheme Status Notice (Scheme Failure)".
- 3.25 Where a pension scheme rescue is not possible, and after the relevant procedures have been completed and rights of review exhausted, the pension scheme will continue in the assessment period.

Insolvency Practitioner Ceasing to Act

- 3.26 If the appointment of the IP does not take effect or comes to an end before a view can be formed on what will happen in relation to the scheme, the IP should file a "Section 122(4) – Pension Scheme Status Notice (Ceasing to Act)".

- 3.27 Where the IP is unable to confirm whether or not a pension scheme rescue is possible and a notice is issued to that effect, and that notice becomes binding, the PPF must consider whether another insolvency event is likely to occur in the next six months:
- If this is unlikely, the PPF will issue a withdrawal notice terminating the assessment period.
 - If the PPF considers that another insolvency event is likely and six months has passed without one, the PPF is then required to issue a withdrawal notice, terminating the assessment period.
 - If the PPF considers it likely that a further insolvency event will occur and it does so within six months, the scheme remains in an assessment period and the process for determining the pension scheme status recommences when the PPF is notified of that further insolvency event.
- 3.28 The situation may be different for pension schemes where there is more than one participating employer. How the situation differs will depend on the structure of the pension scheme.
- 3.29 If there is a further insolvency event after a withdrawal notice is issued and has become binding, the IP must issue a further section 120 notice and the assessment process, including confirming eligibility, will start again from the date of the new insolvency event.
- 3.30 The obligation to issue a scheme status notice applies, irrespective of a scheme's PPF eligibility or whether the existence of an assessment period has been confirmed, and there may be serious ramifications for the pension scheme, including potential financial loss, if the IP fails in their statutory duty to issue that notice. One of the reasons is that the scheme continues to be liable to pay the PPF levy, even after its employer has had a qualifying insolvency event, until the section 122 notice has been submitted.

4. Notification requirements under the Corporate Insolvency and Governance Act 2020 (CIGA20)

- 4.1 CIGA20 introduced a requirement that the PPF must be notified if a moratorium has come into effect in relation to an employer of an eligible defined benefit scheme, and the date that it comes to an end.
- 4.2 The Monitor must notify the PPF of any extension to the moratorium.
- 4.3 There is also a requirement for an employer of an eligible defined benefit pension scheme to notify the PPF of proposals under a Restructuring Plan.
- 4.4 As neither a Moratorium nor a Restructuring Plan cause an assessment period to commence, the PPF online reporting system should not be used. Instead, information and notices should be sent to the 2020actnotification@ppf.co.uk mailbox address.
- 4.5 Although these procedures are not qualifying insolvency events prompting the commencement of an assessment period, the PPF does exercise the pension scheme trustees' creditor rights in certain circumstances.
- 4.6 See the Guidance note 9 - Corporate Insolvency and Governance Act 2020 for more information on the PPF's approach to CIGA20.

5. Pension scheme trustee creditor rights

- 5.1 When an assessment period begins, the PPF will assume all the creditor rights of the pension scheme trustees (whether contingent or not) in relation to the insolvency of the employer under section 137.
- 5.2 A Recovery Plan or a Moratorium also bestow the creditor rights on the PPF, which has a duty to confer with the trustees when exercising its rights. These CIGA20 procedures do not prompt the commencement of an assessment period.
- 5.3 All documents, such as reports and notices of decision procedures should be sent to the PPF so it can be properly informed and exercise the creditor rights of the pension scheme in the insolvency or CIGA20 procedure. The contact details for the R&I team are shown at the end of this guidance.
- 5.4 In certain circumstances, the PPF and trustees may act jointly in relation to creditor rights. These circumstances are very limited and usually arise due to scheme structure issues or the timing of validation. The R&I case manager will be able to advise on any queries you have in this situation.
- 5.5 During the assessment period, any sums recovered from the employer, for example an insolvency dividend in relation to the pension scheme's claim, should be sent directly to the scheme trustees.
- 5.6 If the PPF assumes responsibility for a pension scheme, the trustees will cease to have any responsibility for the pension scheme, and all rights will pass to the PPF. In this event, all insolvency dividends should be forwarded to the PPF. The bank details are on our website at www.ppf.co.uk/trustees-advisers/payment-dividends-guarantees-or-loan-notes. Notification is sent to at least one of the office holders when the PPF has assumed responsibility for a scheme.
- 5.7 In the event that the assessment period ends, either because there has been a withdrawal event (e.g., scheme rescue) or the process has been concluded as the scheme is funded above the PPF level, the PPF relinquishes its creditor rights in relation to the employer. In this event, the trustees will resume all rights and responsibilities to act as creditor for the scheme and the PPF will have no further involvement in relation to the scheme. The exception is if the scheme is continuing to be run as a closed scheme. See also paragraphs 2.6 and 2.9.
- 5.8 IPs should note that, unless they have been notified either of a withdrawal event or that the scheme trustees have bought out benefits above PPF levels of compensation, they should continue to liaise with the PPF. In particular, IPs are asked to flag to the PPF if they become aware of an attempt to sell the trustees' claim in the insolvency.

6. Employees and pensioners

- 6.1 During an assessment period, any pension scheme enquiries from employees or existing pensioners should be directed to the pension scheme trustees, rather than the PPF.
- 6.2 This is because the trustees remain responsible for administering the scheme (subject to statutory restrictions) throughout the assessment period.
- 6.3 The trustees also remain responsible for the pension payments. It is therefore critical that, in the period prior to insolvency, the IP considers the impact of arrangements that have been made by the employer to provide payroll services and bank accounts to the pension scheme to ensure payments continue to be made. The PPF has produced Guidance note 7 - The pre-appointment panel and the appointment of independent trustees to assist IPs, employers and trustees.
- 6.4 The PPF website provides helpful information to deal with enquiries from employees or pensioners about the PPF more generally, and for a basic understanding of the compensation that may be payable.

7. PPF expectations of insolvency office holders and their staff, and further information

- 7.1 The size of the pension scheme claim in the employer's insolvency often makes it by far the largest creditor of the estate. The PPF exercises the creditor rights under section 137 to maximise the insolvency return.
- 7.2 The claim may be on a secured or unsecured basis depending on whether the trustees took any security to support the pension obligations. Additionally, the scheme may benefit from a third-party contingent asset guarantee or an asset backed contribution to the scheme, which has crystallised through the insolvency event.
- 7.3 The approach adopted by the PPF will be specific to the circumstances of the case. The following guidance notes have been prepared to explain our approach and policy in certain situations, so IPs and other advisors can develop their strategy for engaging with us accordingly. This guidance is available on the PPF website. It is periodically updated and new topics are added from time to time:

7.3.1 Guidance note 1: The PPF's legal standing and approach to the governance of insolvency proceedings

- Provides more information about the PPF's standing as a creditor.
- Sets out the policy on creditors' and liquidation committees.
- Explains our approach when we have been disenfranchised.
- Presents our view on certain proposals and resolutions, including the timing of administrators' discharge.

7.3.2 Guidance note 2: Insolvency Practitioner remuneration

- Explains how we view pre- and post-appointment fee proposals.
- Sets out how we should be treated when the scheme is a secured creditor.

The PPF has also published a rate card setting out the maximum hourly rates that it is prepared to accept and the methodology for calculating those rates.

7.3.3 Guidance note 3: Pre-packaged administrations

- Sets out the issues for the PPF and its approach when considering pre-packs.

7.3.4 Guidance note 4: Potential legal actions contemplated by Insolvency Practitioners

- Sets out the approach taken by the PPF in relation to legal actions either being brought or defended by IPs.

7.3.5 Guidance note 5: Company Voluntary Arrangements

- Re-states the PPF's restructuring principles in the context of a proposed CVA (see also the "[Guidance on our approach to employer restructuring](#)").

- Sets out our requirements if the intention is not to compromise the scheme through the CVA.
- Explains the PPF's approach to voting in CVAs and other voluntary arrangements.

7.3.6 Guidance note 6: How PPF drift arises and should be addressed

- Introduces the concept of PPF drift.
- Explains how it can have a genuine impact on the liabilities we may be required to take on.
- Sets out our considerations in relation to drift when presented with RAA and CVA proposals.
- Presents examples of PPF drift.
- Sets out the principles that actuaries should apply in calculating PPF drift.

7.3.7 Guidance note 7: The pre-appointment panel and appointment of independent trustees

- Explains why it is important for trustees experienced in dealing with the assessment period to be involved.
- Introduces the panel of firms offering support services to trustees.

7.3.8 Guidance note 8: Situations involving new or successor schemes

- Sets out the PPF's considerations and approach in the rare circumstances where a restructuring also entails establishing a new or successor pension scheme.

7.3.9 Guidance note 9: Corporate Insolvency and Governance Act 2020

- Sets out the PPF's position when a moratorium is put in place or a restructuring plan is being proposed.
- Explains how the PPF exercises the pension scheme trustees' creditor rights in certain circumstances even though these procedures are not qualifying insolvency events prompting the commencement of an assessment period.

7.3.10 Guidance note 10: Potential claims as a result of employer insolvency

Provides more detail on:

- how the claim for the pension deficit arises and is calculated;
- the PPF's locus to exercise the creditor rights;
- security and receivership;
- guarantees;
- claims on the Redundancy Payments Service for unpaid pension contributions; and
- the interaction between claims.

7.3.11 Guidance note 11: Scheme rescue notices and the PPF's approach

- Sets out the statutory position and the considerations applied by the PPF when a scheme rescue is being considered.

7.3.12 Guidance note 12: Completing forms for claims on the Redundancy Payments Service

- Sets out best practice for the completion of forms when claims for unpaid pension contributions are being made to the Redundancy Payments Service.

7.3.13 Guidance note 13: Guidance for trustees on their approach on PPF consideration in distressed employer situations

- Sets out the tests that the PPF believes trustees should apply and the matters to be considered when deciding whether a scheme should be allowed to continue when it has a distressed employer.

7.4 Case Management

Where the scheme/PPF is the largest creditor, the liabilities due to it are often as large as, or greater than any finance debt. In these circumstances and where value breaks with the scheme, the PPF will expect to receive the same level of consultation as a bank might expect in similar situations. This will typically include consultation on the appointment of other professionals and the asset disposal strategy.

7.5 Changing Insolvency Practitioners

The PPF can use the creditor rights it holds to initiate the change of an IP. This option is not used frequently but may be appropriate where:

- a potential or actual conflict of interest exists or is perceived to exist;
- a pre-packaged administration has occurred but the PPF has not been fully consulted in the period prior to it being implemented; or
- matters requiring investigation on the conduct of the case arise, necessitating the appointment of a new IP.

Appendix 1: Insolvency events

Insolvency events in relation to a company (section 121(3)) and Regulation 5 of the Pension Protection Fund (Entry Rules) Regulations 2005)

An insolvency event occurs in relation to a company where:

1. the nominee under Part 1 of the Insolvency Act 1986 either:
 - a. (who is not the liquidator or administrator) submits a report to the court stating his opinion that meetings of the company and its creditors should be summoned to consider the proposal, or
 - b. (who is an administrator or liquidator) summons a meeting of the company and its creditors to consider the proposal;
2. an administrative receiver is appointed in relation to the company;
3. the company enters administration;
4. a resolution is passed for creditors' voluntary liquidation or an administrator issues a notice which converts the administration to creditors' voluntary liquidation;
5. a creditors' meeting is held which converts a members' voluntary liquidation into a creditors' voluntary liquidation; or
6. a winding up order is made or an administration is converted to winding up by court order.

Note: Schemes of Arrangement, exit of administration by dissolution and members' voluntary liquidations are not an "insolvency event".

Insolvency events in relation to a partnership (section 121(4)) and Regulation 5 of the Pension Protection Fund (Entry Rules) Regulations 2005)

An insolvency event occurs in relation to a partnership where:

1. an order for the winding up of the partnership is made or an administration is converted to a winding up by court order;
2. sequestration is awarded on the estate of the partnership under section 12 of the Bankruptcy (Scotland) Act 1985 or the partnership grants a trust deed for its creditors;
3. the nominee under Part 1 of the Insolvency Act 1986 either:
 - a. (who is not the liquidator or administrator) submits a report to the court stating his opinion that meetings of the partnership and its creditors should be summoned to consider the proposals, or
 - b. (who is an administrator, liquidator or trustee) summons a meeting of the partnership and its creditors to consider the proposal; or
4. the partnership enters administration.

Insolvency events in relation to an individual (section 121(2))

An insolvency event occurs in relation to an individual where:

1. he is made bankrupt or sequestration of their estate has been awarded;
2. a nominee submits a report pursuant to section 256(1) or section 256A(3) of the Insolvency Act 1986 stating his opinion that a meeting of the creditors should be called to consider the proposals;
3. he executes a trust deed for his creditors or enters into a composition contract;
4. he has died and:
 - an insolvency administration order is made, or
 - a judicial factor appointed under section 11A of the Judicial Factors (Scotland) Act 1889 is required by that section to divide the individual's estate amongst their creditors.

Additional insolvency events (section 121(5) and Regulation 5 of the Pension Protection Fund (Entry Rules) Regulations 2005)

An insolvency event occurs:

1. in relation to a company where an administration order is made by the court in respect of the company by virtue of any enactment which applies to Part 2 of the Insolvency Act 1986 Act (administration orders) with or without modification;
2. in relation to a relevant body, where:
 - i. any of the events referred to in section 121(3) of the Act (see company insolvency events above) occurs in relation to that body by virtue of the application (with or without modification) of any provision of the Insolvency Act 1986 Act or under any other enactment, or
 - ii. an administration order is made by the court in respect of the relevant body by virtue of any enactment which applies Part 2 of the Insolvency Act 1986 Act (with or without modification);
3. in relation to a building society, where there is dissolution by consent of the members under section 87 of the Building Societies Act 1986, a building society insolvency under section 130 of the Banking Act 2009, or building society special administration order under section 158 of the Banking Act 2009;
4. in relation to a friendly society, where there is dissolution by consent of the members under section 20 of the Friendly Societies Act 1992;
5. in relation to a co-operative or community benefit society, where there is dissolution by consent of the members under section 119 of the Co-operative and Community Benefit Societies Act 2014.

In this context, "a relevant body" is:

- a) a credit union within the meaning given in section 31(1) of the Credit Unions Act 1979;
- b) a limited liability partnership within the meaning given in section 57(6) of the Act (sections 38 to 56: partnerships and limited liability partnerships);
- c) a building society within the meaning given in section 119 of the Building Societies Act 1986;
- d) a person who has permission to act under Part 4A of the Financial Services and Markets Act 2000 (FSMA) (permission to carry out regulated activities);

- e) the society of Lloyd's and Lloyd's members who have permission under Part 19 of the FSMA (Lloyd's);
- f) a friendly society within the meaning given in the Friendly Societies Act 1992; or
- g) a co-operative or community benefit society.

Appendix 2: Information IPs should supply if an insolvency event occurs

Regulation 4(2) of the Pension Protection Fund (Entry Rules) Regulations 2005

A notice issued by an IP under section 120(2) Pensions Act 2004 shall be in writing and shall contain the following information:

- a. the name or type of the notice issued;
- b. the date on which the notice is issued;
- c. the name, address and pension scheme registration number of the scheme for which the notice is issued;
- d. the name of the employer in relation to the scheme for which the notice is issued;
- e. the nature of the insolvency event that has occurred and the date of its occurrence;
- f. the name of the IP acting for the employer in relation to the scheme;
- g. the date on which the IP was appointed to act or consented to act in relation to the scheme employer or, in any case where the IP is the official receiver, the date on which the official receiver began to act in relation to that employer;
- h. the address for communications at which the IP may be contacted by the PPF in connection with the issue of the notice; and
- i. whether the notice issued contains any commercially sensitive information.

Appendix 3: Information IPs should include in a notification of the scheme status

Regulation 9(3) of the Pension Protection Fund (Entry Rules) Regulations 2005

A notice issued by an IP under section 122(2)(a) or (b) Pensions Act 2004, or by a former IP under s122(4), shall be in writing and shall contain the following information:

- a. the name or type of notice issued;
- b. the date on which the notice is issued;
- c. the name, address and pension scheme registration number of the scheme for which the notice is issued;
- d. the name of the employer in relation to the scheme for which the notice is issued;
- e. the name of the IP or former IP and the address at which that IP may be contacted by the PPF in connection with the issue of the notice;
- f. a statement by the IP or former IP that, as the case may be, a scheme rescue has occurred or a scheme rescue is not possible, or that he has been unable to confirm that a scheme rescue has occurred or that a scheme rescue is not possible;
- g. if a scheme rescue has occurred, the date or the approximate date of the scheme rescue and, if there is a new employer in relation to the scheme, the name and address of that employer;
- h. if a scheme rescue is not possible, a statement from the IP or former IP as to why, in their opinion, this is not possible;
- i. if section 122(4) applies and the former IP has not been able to confirm that a scheme rescue is not possible, a statement from that IP as to why, in their opinion, this is the case;
- j. a statement that the notice issued will not become binding until it has been approved by the PPF; and
- k. whether, in the opinion of the IP or former IP, the notice issued contains any commercially sensitive information.

Appendix 4: Events triggering obligation to file a ceasing to act notice under section 122(4)

Companies

- Where the procedure for a voluntary arrangement has begun but for whatever reason, no voluntary arrangement has effect or, where a voluntary arrangement has effect, it later ceases to have effect as a result of a court order.
- Where the company enters administration, the appointment of an administrator in respect of the company ceases to have effect, except where:
 - the company moves from administration into winding up pursuant to paragraph 83 (moving from administration to creditors' voluntary liquidation) of Schedule B1 to the Insolvency Act 1986 or pursuant to an order of the court under rule 21.3 of the Insolvency (England and Wales) Rules 2016; or
 - a winding up order is made by the court immediately upon the appointment of the administrator ceasing to have effect.
- Where an administrative receiver vacates office under section 45 of the Insolvency Act 1986.
- Where the winding up proceedings are stayed or the winding up order is rescinded or discharged, except where the court has made an administration order.
- Where a bank insolvency procedure is stayed or the bank insolvency order is rescinded or discharged, except where the court has made an administration order under section 114 of the Banking Act 2009.

Partnerships

- References are to provisions of the Rules and of the Act as applied by an order under section 420 Insolvency Act 1986.
- Where the procedure for a voluntary arrangement has begun under section 2 of the Insolvency Act 1986 but for whatever reason no voluntary arrangement is in effect or, where a voluntary arrangement has effect, it later ceases to have effect as a result of a court order.
- Where an administration order has been made in relation to the partnership under Part II Insolvency Act 1986, the order is discharged, except where:
 - a winding up order is made by the court immediately upon the discharge of the administration order; or
 - the discharge is pursuant to an order of the court for the administration to be converted into winding up under rule 2.61(1) of the Insolvency Rules 1986 without the amendments made by the Insolvency (Amendment) Rules 2003.
- Where an order for winding up the partnership has been made by the court, the winding up proceedings are stayed, or the winding up order is rescinded or discharged.

Individuals

- Where the procedure for a voluntary arrangement has started but for whatever reason no voluntary arrangement is in effect or, where a voluntary arrangement has effect, it later ceases to have effect as a result of a court order.
- Where the bankruptcy order against the individual is annulled or rescinded.
- Where an insolvency administration order in respect of the estate of a deceased person is annulled or rescinded.

Building Societies

See in particular provisions under regulation 6(1)(d) Pension Protection Fund (Entry Rules) Regulations 2005.

Contact details

Jill Sandford

Director of Restructuring & Insolvency

jill.sandford@ppf.co.uk

020 8633 4942

Mark Allen

Senior Case Manager

mark.allen@ppf.co.uk

020 8633 5823

Ann Kirkby

Case Advisor

ann.kirkby@ppf.co.uk

020 8633 5942

The Pension Protection Fund
Restructuring & Insolvency Team
Renaissance,
12 Dingwall Road
Croydon, CR0 2NA

November 2023

Please note this leaflet seeks to assist stakeholders and insolvency professionals on our approach to restructuring and insolvency cases. It is an accompaniment to existing publications from the PPF published on our website, not a substitute. We encourage restructuring & insolvency practitioners and trustees to seek appropriate, specific case guidance.

See **www.ppf.co.uk** for further information.