PPF

Pension Protection Fund

TN Technical News

Issue 2 | November 2012

In this issue

- **July 2012 changes to PPF regulations:**
  - Funding Determinations
  - Reconsideration Applications
- **FAS underpin schemes**
- **The 'To Watch' list**

Welcome...

...to ***Technical News,*** the Pension Protection Fund's (PPF) newsletter on topical issues including practical guidance for schemes in PPF assessment periods and FAS qualifying schemes. Our aim is to provide you with regular updates about topics of interest. If there are any technical issues of interest you would like to hear from us on, please do submit a comment via our website (see the link below). Where appropriate we will consider including an update in a future edition. http://www.pensionprotectionfund.org.uk/Pages/Feedback.aspx

July 2012 Changes to PPF Regulations

Regulatory changes introduced in July enable some schemes to transfer into the PPF without completing a Section 143 valuation, and made changes to the reconsideration process so Reconsideration Applications can be made where schemes have been unable to obtain a Protected Benefit Quotation (PBQ). We anticipate that these changes will enable shorter assessment periods and reduce costs.

The changes were introduced in the Pensions Act 2011 which amended sections 143 and 151 of the Pensions Act 2004 and took effect from 23 July 2012[1]. We published a consultation document with our proposed approach to the changes in July and issued our consultation response on 4th September. The consultation documents can be found on our website:

http://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/Response_to_Consultation_funding_determinations_Sep12.pdf

http://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/Consultation_funding_determinations_Jul12.pdf

➜ Funding Determinations

The first of these changes makes it possible for the PPF to make a funding determination instead of obtaining a section 143 valuation. Previously no scheme could transfer into the PPF without a section 143 valuation being obtained and approved. The introduction of funding determinations gives the PPF an option to make a decision about the scheme's funding level based on an estimate of the scheme's assets and protected liabilities instead.

As set out in our final statement we anticipate exercising this option for schemes that are very underfunded or very overfunded. Decisions will be made taking into account the circumstances of each scheme.

Once the PPF has decided whether a section 143 valuation or a funding determination will be made, we will write to scheme trustees and insolvency practitioners. If a funding determination is to be made, the scheme or panel actuary will be asked to provide an estimate of the scheme's assets and protected liabilities. We will use this estimate to decide if the scheme is overfunded or underfunded and whether or not it will transfer to the PPF. Significantly, where a funding determination is made, there is no requirement to obtain audited accounts. This process is expected to be quicker and more cost-effective for these categories of schemes than completing a section 143 valuation.

[1] Pension Protection Fund (Miscellaneous Amendments) Regulations 2012

The option to carry out a funding determination does not apply to all schemes. Multi-employer schemes, where a segregated part is in an assessment period, will still be required to have a full section 143 valuation and are not covered by this legislation.

Reconsideration applications

The second change introduces additional flexibility into the existing reconsideration process. The new amendments enable an application for reconsideration under section 151 to succeed even if the scheme has been unable to obtain a PBQ.

Historically, where a scheme's binding section 143 valuation showed it was overfunded on a section 143 basis, the trustees of that scheme could apply for reconsideration, providing they could supply the PPF with a PBQ. This requirement created difficulties for many trustees because of the specific legislative requirements for a suitable quotation, the availability of those willing to quote on this basis and the costs incurred obtaining the quotation.

Providing trustees can demonstrate that they have taken all reasonable steps to obtain a PBQ but were unable to do so, a "Non PBQ Application"[2] may now be made to the PPF. There is a requirement for audited scheme accounts to be submitted with the application, but this only applies to a Non PBQ Application. Before a Non PBQ application can be accepted, the PPF will need to establish the scheme's assets and protected liabilities at the reconsideration time through a section 152 valuation or a section 152 funding assessment. If as a result of this funding assessment the scheme is underfunded at the reconsideration time, the scheme will transfer to the PPF. We have updated our guidance for section 151 and 153 applications and it can be found on our website at:

http://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/s151-153_guidance.pdf

Both of these changes support the PPF's aim to transfer schemes which are unable to secure benefits at PPF levels as efficiently and cost effectively as possible.

[2] See guidance document

FAS Underpin Schemes

Underpin Benefits

In May 2012 DWP published an appendix to their guidance on methods and assumptions to use when undertaking a valuation under Regulation 22 of the Financial Assistance Scheme Regulations 2005. The appendix gives guidance on the treatment of underpin benefits in the FAS valuation and can be found here:

http://www.dwp.gov.uk/docs/fas-guidance-reg22-appendix.pdf

Trustees of FAS qualifying schemes should check their scheme rules to identify whether there is an underpin benefit in the scheme, and speak to their actuary to ensure that the test is undertaken appropriately.

Underpin benefits can take different forms. The appendix outlines the approach to take when dealing with either a money purchase scheme with a defined benefit underpin, or a defined benefit scheme with a money purchase underpin.

Protected Rights

If the scheme benefits include Protected Rights as a result of contracting out of the State Second Pension on a money purchase basis, whether those Protected Rights constitute an underpin or a separate benefit will depend upon the rules of the scheme.

Top up benefits

Where a scheme has a money purchase benefit that provides a top up to a defined benefit (rather than comparing two separate benefits and putting the higher into payment), FAS will assess members for assistance based on the defined benefit that they would have expected to receive. It is important to differentiate this type of benefit from an underpin benefit, where FAS will only assess members for assistance if their defined benefit produces the higher benefit.

Value for Money Tests

Some schemes have other types of benefit comparison tests, often known as value for money tests, and these may compare one defined benefit with another defined benefit. For example, where the scheme actuary considers whether early leavers' defined benefit pensions should be topped up, and one of the factors for consideration when making this decision is the amount of the member's contributions. The PPF considers these benefit promises to be defined benefit.

In these cases, the test should be undertaken as defined in the scheme rules. Often the date at which the test should be undertaken is the point at which the benefit crystallises, which for FAS qualifying schemes would be the date of scheme wind up unless the member had retired before that date. However, this may not always be the case and scheme rules should be checked to ensure that the test is undertaken on the correct basis.

As both benefits being compared are defined benefit, the FAS will assess members for assistance payments based upon the benefit that produces the higher result and it is that benefit which should be used to populate the S1.

➜ Action required

Trustees should check their scheme rules to identify any underpin benefits, protected rights or value for money tests. If any of these exist, trustees should consider how these should be taken into account for the FAS valuation and S1, and contact the Scheme Delivery Associate at PPF to agree the action required. Trustees should also check to ensure that the S1 data previously provided for FAS to assess and pay initial payments was based on the correct benefit.

If a scheme has a complex benefit structure such as a top up benefit or value for money test, and would like some further guidance on how these should be treated for FAS purposes, the trustees should discuss this with their Scheme Delivery Associate.

Watch List

As always, there is a fair amount of activity happening in the pension arena. Here are some things we anticipate will be of interest to schemes in the PPF assessment period or FAS qualifying schemes:

➜ Financial Assistance Scheme Regulations

Following the consultation response by DWP in May 2012 to the 2011 consultation, a set of regulations which will consolidate all existing FAS regulations is expected. The consultation document and response from DWP can be found here:

http://www.dwp.gov.uk/consultations/2011/fas-regs-2011.shtml

➜ The Pension Protection Fund Regulations

We also anticipate regulations relating to PPF requirements that were introduced in the Pensions Act 2011, but have not yet been commenced, will be brought forward in the coming months.

➜ Money Purchase Regulatory Amendments

We are aware that uncertainty still surrounds the impact of changes made (but not commenced) to the definition of money purchase benefits in the Pensions Act 2011. While DWP continues to work with the pensions industry to resolve the issue, and introduce regulatory changes, we recommend schemes contact their Scheme Delivery Associate to discuss any impact relating to their individual circumstances.

➜ GMP Equalisation

We have undertaken a pilot with a number of schemes in the PPF assessment period to calculate compensation in line with the method detailed in our statement published in November 2011. This method ensures that GMP is treated appropriately in respect of equalisation and the underpin method for the purposes of compensation calculations. The statement can be accessed here:

http://www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/GMP_Statement_November_2011.pdf

As a result of the pilot we are satisfied that the statement methodology is fit for purpose and can be implemented for schemes in a PPF assessment period. We will write to those schemes in due course to detail how we expect the GMP method to be taken into account in future. Until we have done that we do not expect schemes to change their approach at this time. We will also include an update in a future TN. For schemes already in assessment, any queries at this time should be submitted to your Scheme Delivery Associate.

The information we provide is for guidance only and should not be taken as a definitive interpretation of the law.

PPF Technical Team, November 2012.

If you have any queries, please contact us:
Tel: 0845 600 2541
Textphone: 0845 600 2542
Email: information@ppf.gsi.gov.uk