Defined Benefit Arrangements

Assignment 4

*(Part 5 – Winding Up and the Pension Protection Fund)*

*Recommended Time: 3 hours*

1. **You are the consultant for a scheme where the Sponsoring Employer of the scheme has become insolvent. The trustee has asked you to outline the key issues the Trustee should address. Write a short paper outlining 3 key issues the Trustee should consider.**

**15 marks**

Relevant section of the manual is Part 5 Chapter 1.4.

Format: formal report, introduction, key issues, conclusion, recommendation

Answer should cover:

* Protection of assets from creditors-Where a scheme is wound up as a result of the principal employer’s insolvency, the pension scheme’s status as a trust means that the assets of the scheme are held separately from those of the employer. Therefore, they are protected against claims from the employer’s creditors even if the employer is the sole scheme trustee.
* Arrears of contribution-Section 124 of the Pension Schemes Act 1993 provides limited safeguards for occupational pension schemes in the event of the insolvency of an employer. The trustees or administrators of such schemes may apply to the Secretary of State for Work and Pensions for payment from the State redundancy fund in respect of relevant contributions which were due, but unpaid, by the insolvent employer
* PPF and FAS-Where a scheme’s sponsoring employer has become insolvent it may be eligible to enter the Pension Protection Fund (PPF). The PPF was established under the Pensions Act 2004 and applies, broadly, to the schemes of companies that become insolvent from 6 April 2005.The PPF is designed to provide compensation to members of DB schemes of an insolvent employer where the scheme is underfunded on the PPF basis

1. **You are a Pensions Manager, managing a scheme which is not eligible to enter the PPF. Your CFO has emailed you asking for information on an alternative way benefits could be paid to some scheme members if the employer were to become insolvent. Reply to the CFO.**

**10 marks**

Relevant section of the manual is Part 5 Chapter 2.7.

Format: email with appropriate headers

Answer should cover:

* Financial Assistance Scheme
* Pensions Act 2004
* Eligibility for FAS help
* Criteria for members to qualify for benefits
* The purpose of the Report
* The information that the Report must contain
* Suitability of FAS as an option for providing compensation

1. **You are the administrator for a scheme which will be transferring to the PPF. Draft a letter to scheme members outlining the level of benefits that will be payable from the PPF.**

**10 marks**

Relevant section of the manual is Part 5 Chapter 2.5.

Format: formal letter, plain English, recipient will have little or no technical knowledge

Answer should cover:

* The percentages payable for all categories of pension in payment, before and after NPA for example 100% of the original amount of any pension in payment at the start of the assessment period provided that the member had then reached normal pension age (NPA) under the scheme or was receiving an ill health early retirement pension
* • 100% of the benefits in payment to the spouse or dependant of a deceased member
* • 100% of the amount of the pension entitlement where the member is over NPA and has not taken his pension (such members can commute 25% of their prospective benefit for a lump sum)
* • 90% of the accrued pension entitlements of deferred members and those whose benefits are in payment but who have not yet reached NPA at the start of the assessment period (unless they are receiving an ill health early retirement pension), capped at a maximum of £41,461.07 at age 65 for the year from 1 April 2021 or 90% of £41,461 at age 65 at 1 April 2020.
* Deferred benefits, before and after NPA
* Benefit caps
* Pension increases and revaluation of deferred pensions- increases in pensions payable from the PPF in respect of pensionable service after 5 April 1997 by reference to CPI capped at 2.5%
* Survivors’ benefits for spouses and civil partners of one half of the member’s benefit at the date of death

1. **You are the Pensions Adviser to the Sponsoring Employer of a small DB scheme which is closed to new members but open for future accrual. The employer wishes to close the scheme with a view to winding it up. Write a short paper for the employer, outlining the key considerations.**

**20 marks**

Relevant section of the manual is Part 5 Chapter 1.2.

Format: formal report, introduction, key sections, summary/conclusion, recommendation

Answer should cover:

* the factors that need to be considered before closing a scheme
* the advantages and disadvantages to the employer of closing the scheme
* the powers various parties have to close the scheme and how this is achieved
* Reference to the Trust Deed and Rules and the Pensions Act 2004

1. **You are the consultant for a scheme where wind-up has been triggered. The trustees have asked you to talk to them about how they can protect themselves from claims from beneficiaries after wind-up has been concluded. Write an aide memoir to take to the meeting.**

**10 marks**

Relevant section of the manual is Part 5 Chapter 1.7.

Format: informal, note/list/bullets

Answer should cover:

• Section 74 of the Pensions Act 1995 provides for trustees to be discharged if the benefits are dealt with in accordance with that section

• a Section 27 of the Trustee Act 1925 notice to identify missing beneficiaries. The section requires a notice to be published in the London Gazette and in one other newspaper and to give missing beneficiaries a period of two months to notify claims to the trustees. If no claims are received, the trustees can use the scheme assets for the benefits of members of whom they are aware. The trustees would not be liable in respect of any claims from unknown beneficiaries that are made after the notice period has ended although there is debate as to the effectiveness of such notices

• many trust deeds provide trustees with an exoneration clause under which they are free from obligations to members other than those which arise out of wilful neglect or default

• many schemes include an indemnity from the principal employer to the trustees in respect of claims arising otherwise than out of dishonesty. Such an indemnity will, however, only be of value if the employer remains solvent

• the trustees may take out ‘run-off’ insurance to protect them from claims and the cost of defending these, for a period after the winding up has been completed. The premium for such cover can only be taken from the funds of the scheme if the Trust Deed permits this. Otherwise, the premium would have to be met by the employer or by the trustees personally

1. **As a Pensions manager, the Chair of the Trustee Board has asked you for information about the purpose of the PPF assessment period and the member communication required. Write an email to the Chair outlining:**
2. **the parties involved in the assessment period and the timescale of the assessment period**
3. **the two key trustee responsibilities during the assessment period and the information provided in the trustee announcement issued when the scheme enters the assessment period**

**25 marks**

Relevant section of the manual is Part 5 Chapters 2.3.1 and 2.3.3

Format: email format with appropriate headers, some bulleting acceptable.

Answer should cover:

* The aim is to complete assessment for most schemes within two years.
* 10 key parties• Insolvency practitioner
* Trustees
* PPF case handler
* PPF Specialist Panel Independent Trustee
* PPF Specialist Panel Actuary. This is a joint panel appointment with the Panel Administrator (see below), i.e., the same organisation will usually provide both services
* PPF Specialist Panel Administrator
* PPF Specialist Panel Auditor
* PPF Specialist Legal Adviser

Scheme Legal Advisers

Incumbent administrator

* Anyone who can assist the process with historic experience of the scheme
* Trustees must ensure scheme data is accurate
* Trustees must continue to pay pensions – at PPF level
* 6 key points included in the trustee announcement • explains what has happened to the sponsoring employer
* explains what happens to the scheme now
* advises that certain members will receive about 90% of their expected benefits in the form of compensation
* provides a list of Frequently Asked Questions
* gives details about what happens to those currently receiving a pension and those not currently receiving a pension
* provides contact details on where to request any further information

1. **Briefly describe:**
2. **how a scheme’s funding is assessed in order to determine if it can be accepted into the PPF**
3. **What are the options for a scheme where PPF entry is declined due to its funding level**

**10 marks**

Relevant section of the manual is Part 5 Chapter 2.4.

Format: descriptive, informal

Answer should cover:

* PPF funding determination
* S143 valuation
* Accepted into PPF is funding level insufficient to cover PPF level of benefits
* Entry declined where scheme funding is sufficient to cover PPF level of benefits
* 2 courses of action for declined schemes
* Reconsideration
* Buy-out