



# General guidance on Insolvency and the Assessment Period

REQUIREMENTS AND EXPECTED CASE CONDUCT  
FOR INSOLVENCY PRACTITIONERS

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## Abbreviations:

IP	Insolvency Practitioner or official receiver as appropriate
PPF	Board of the Pension Protection Fund
R&I	Restructuring & Insolvency Team
RAA	Regulated Apportionment Arrangement
TPR	The Pensions Regulator

Unless otherwise stated references in this guidance to legislation are to Pensions Act 2004, as amended from time to time



## An introduction from the Director of Restructuring & Insolvency

**The Pension Protection Fund (PPF) protects millions of people in the UK who belong to Defined Benefit pension schemes in case their employer, or former employer, fails and the scheme can no longer afford to pay their promised pension. If we did not exist, many could face significant financial uncertainty and hardship.**

We are unique, both in terms of our role and the way we operate. We draw on the best aspects of pension schemes and insurance companies to ensure we are financially secure and can offer the best protection possible. 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 publically funded and rely on a levy on eligible Defined Benefit schemes for a substantial element of our income. The money we receive from the estates of insolvent employers is an important additional source of funds. Every pound we receive from an insolvent estate reduces the call on our levy payers, so we are very focused on maximising realisations.

The legislation under which we were created recognised the 'moral hazard' risk that employers might try and 'dump' schemes into the PPF. We work closely with The Pensions Regulator (TPR) to ensure this does not happen and that any scheme that does enter the PPF is the subject of a bona fide employer insolvency. We are continually on the look-out to prevent schemes entering the PPF where another solution is possible that provides a better return to scheme members and the PPF.

This guide seeks to provide information on how Insolvency Practitioners (IPs) should interact with the PPF in the event that a sponsoring employer of an

occupational pension scheme suffers an insolvency event and how an eligible scheme will be assessed to determine whether it should enter the PPF. It aims to help the IP understand their role and responsibilities in relation to an eligible pension scheme going through the PPF's assessment process.

Our intention is to progress the assessment process in relation to pension schemes as efficiently as possible. That is because our overriding objective in dealing with pension scheme members transferred into the PPF is to ensure that 'the right amount is paid to the right person at the right time.'

During the assessment process, IPs play a very important role and need to understand when and how to involve the PPF in relation to an employer's insolvency, for example notifying the PPF about an insolvency event. Additionally, they must understand that the PPF assumes the pension scheme trustees' roles 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.

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 Restructuring & Insolvency (R&I) Case Manager will represent the PPF in the insolvency proceedings.

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 different aspects of the insolvency process which is available on our website.

**Malcolm Weir**  
**Director of Restructuring & Insolvency, PPF**  
**December 2018**

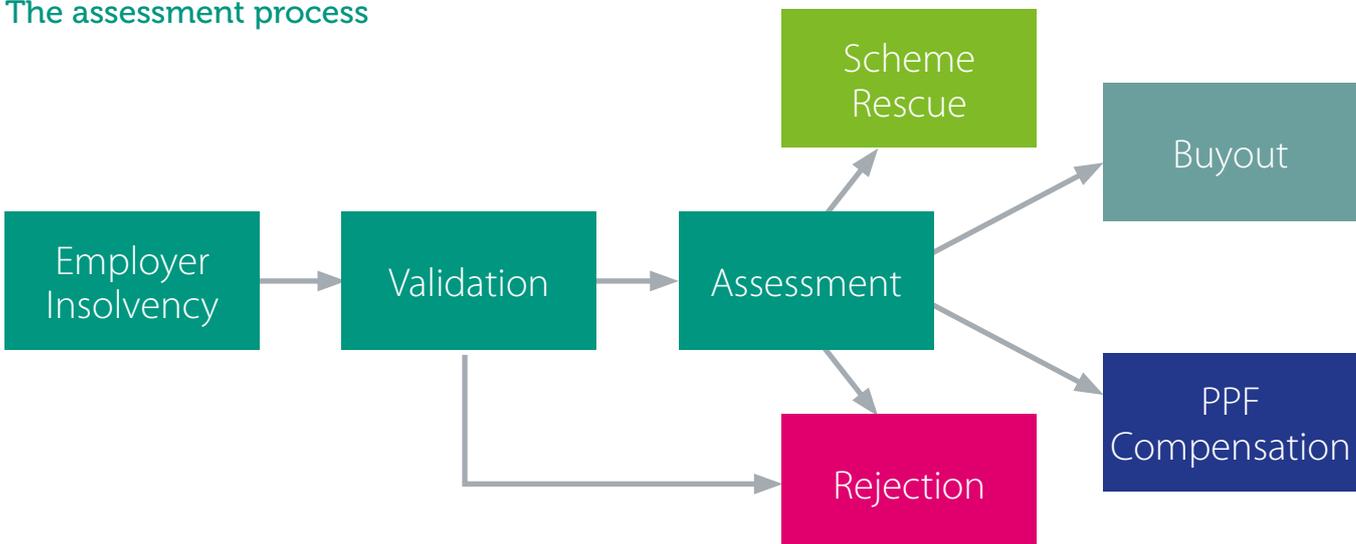
## What is scheme assessment?

- 2.1** A qualifying insolvency event will trigger the start of a PPF assessment period (see Appendix 1).
- 2.2** 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 below.
- 2.3** During this period the pension scheme continues to be administered by its trustees – subject to various restrictions and controls. It is the trustees' role to continue to communicate with members and make pension payments where due, taking into account the assessment period restrictions.
- 2.4** However, during the assessment period, the role of creditor of the employer (on behalf of

the pension scheme trustees) passes to the PPF under s137 of the Pensions Act 2004, in respect of the money due to the pension scheme. The rights and powers of the trustees to represent the pension scheme as a creditor generally cease during this period. If an assessment period ends and the PPF does not assume responsibility for the pension scheme then the creditor rights will usually pass back to the trustees.

- 2.5** During the assessment period the PPF's preferred approach is to ensure that we have specialist advisers appointed to the pension scheme. The IP can assist the PPF by using the employer's power of 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.

### The assessment process



## What is scheme assessment? continued

- 2.6** The PPF will only assume responsibility for a pension scheme where:
- a qualifying insolvency event has occurred in relation to an eligible pension scheme, and
  - a pension scheme has not been rescued, for example where the insolvent employer is in liquidation, its employees made redundant and its assets sold off piecemeal
  - there has not been a withdrawal event, and
  - the valuation of the pension scheme shows that the assets of the pension scheme are insufficient to secure the PPF level of compensation.
- 2.7** 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.
- 2.8** Where these conditions are met, the PPF will assume responsibility for the pension scheme and compensation will then become payable to its members.
- 2.9** In most cases, an assessment period is likely to last at least a year, although this may 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.



An assessment period is likely to last at least a year, although this may vary significantly depending on the complexity of the financial situation of both the employer and the pension scheme.”

## An overview of the notification procedure on an insolvency appointment

**3.1** The following sections aim to provide assistance on the assessment period process in relation to a pension scheme and the key elements of an assessment period in so far as they relate to the IP. Unless otherwise stated, any references to the Act, sections, schedules and regulations relate to those under the Pensions Act 2004.

**3.2** This guidance is for information purposes, it is not a definitive statement of law.

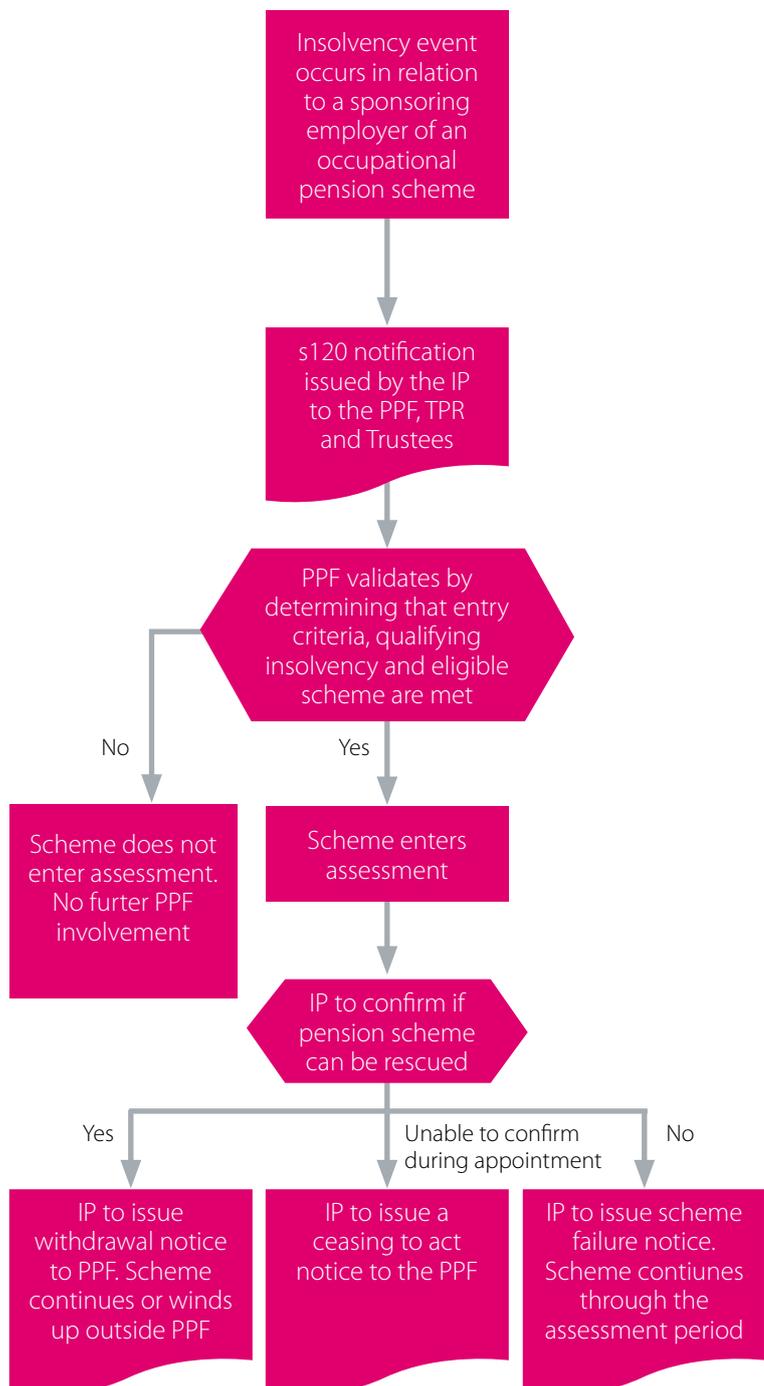
**3.3** Our guide: 'What is the PPF and what do we do?' can be found on the PPF website.

**3.4** A number of parties will be involved in the assessment process and will include:

- an IP
- existing scheme trustees and PPF panel trustees
- TPR
- the scheme actuary, and
- the PPF.

**3.5** The PPF scheme delivery teams will work closely with IPs during the assessment process to provide guidance and help with assessment of the pension scheme in accordance with the Act.

**3.6** The diagram opposite sets out the key stages for an IP during the initial stages of the assessment period:



## Actions for insolvency professionals – notification of an insolvency event

- 4.1** If an employer (including a past employer which still has a liability for the pension debt), with an occupational pension scheme, suffers an insolvency event, for example a company enters administration, the PPF should be informed. A full list of the insolvency events is set out in Appendix 1. The duty to notify does not require the IP to consider whether the pension scheme is eligible for PPF protection.
- 4.2** The PPF should be notified by using the s120 notice pro-forma (but please see para 4.8 below). The notice can be supplied in written or electronic form (see para 4.6 below). The notice can be signed by someone other than the IP (if so authorised). The document is available on the PPF website.
- 4.3** The notice should be sent to the PPF, TPR and the pension scheme trustees within 14 days of the insolvency event or, if later, the date the IP becomes aware of the existence of the occupational pension scheme.
- 4.4** If more than one insolvency event occurs in relation to an employer, a notice is required in respect of each event.
- 4.5** If the employer sponsors more than one occupational pension scheme, a notice will be required in relation to each and every one of the occupational pension schemes involved.
- 4.6** In order to help IPs to comply with their statutory obligation under s120, we have provided an online service, which is available via the PPF website.
- 4.7** This facility enables the IP to enter the employer's name (the company name in which it last meaningfully traded), the individual IP registration number and the date and type of insolvency event on the site. If an occupational pension scheme is in existence, the website will cause the necessary notice to be sent to the PPF, TPR and the trustees. 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. However, if that is the case, the IP will instead be advised to submit a paper s120 notice.
- 4.8** Alternatively, the requisite information can be provided in some other written form. If IPs do not intend to use the notice pro-forma they can find a list of the information that should be included in the notice at Appendix 2.
- 4.9** The PPF needs to be satisfied on two points before it can validate the s120 notice and before it can confirm an assessment period has begun. They are that:
- an insolvency event is a qualifying insolvency event (para 4.1), and
  - the insolvency event must be in relation to an employer of an eligible pension scheme (the criteria are set out in s126 and Regulation 2 of the Pension Protection Fund (Entry Rules) Regulations 2005).

## Actions for insolvency professionals – notification of an insolvency event continued

**4.10** Once the IP informs 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 s120 notice, or if later, receipt of the necessary information about the scheme to establish eligibility.

**4.11** 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'.

**4.12** 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 the Act, apply. This includes the application of the PPF rules to any payment of pensions or benefits.

**4.13** The situation may be different for pension schemes where there is more than one participating employer and 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.

**4.14** When the PPF responds to the s120 notice, its letter will set out the conclusions it has reached on the available information about the scheme's multi-employer status. If IPs are unclear about the impact of this conclusion on the insolvency process, it is recommended they consult a pension law specialist on the specific aspects of their concerns.

## Actions for insolvency professionals – pension scheme failure, withdrawal or ceasing to act notice

- 5.1** The IP should try to reach a conclusion as to the ability of the employer to support the scheme as soon as possible and report this using the relevant form available on the PPF website.
- 5.2** If the IP does not intend to use the notice pro-forma, the requisite information can be sent to us in writing. A list of the information that should be included in the notice is in Appendices 3 and 4.
- 5.3** The notices should be issued to the PPF, TPR and the pension scheme trustees. Once the notices are received, the PPF will determine whether the notice can be approved.
- 5.4** If the employer will continue as a going concern and continue to be responsible for the scheme, or another party assumes responsibility for the employer's liabilities under the scheme there will be a scheme rescue. Then the IP should file a s122 – Pension Scheme Status Notice (Withdrawal Notice).
- 5.5** Where a pension scheme rescue is confirmed, and after the relevant procedures have been completed and rights of review exhausted, the PPF withdraws from the pension scheme and the assessment period ends. The rights of the scheme as a creditor then revert to the scheme trustees.
- 5.6** If the employer will 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, then the IP should file a s122 – Pension Scheme Status Notice (Scheme Failure).
- 5.7** Where a pension scheme rescue is not possible, and after the relevant procedures have been completed and rights of review exhausted, the pension scheme continues in the assessment period.
- 5.8** 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, for example because the court brings the insolvency proceedings to an abrupt end on rescission of a winding up order on the grounds that it ought not to have been made, the IP should file a s122(4) – Pension Scheme Status Notice (Ceasing to Act).
- 5.9** 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, or
  - if the PPF considers it likely and six months has passed without another insolvency event, the PPF is then required to issue a withdrawal notice, terminating the assessment period, or

## Actions for insolvency professionals – pension scheme failure, withdrawal or ceasing to act notice continued

- 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.

- 5.10** 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.
- 5.11** If there is a further insolvency event after a withdrawal notice is issued and has become binding, the IP must issue a further s120 notice and the assessment process, including confirming eligibility, will start again from the date of the new insolvency event.
- 5.12** 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.



If the PPF considers it likely that a further insolvency event will occur within six months, the scheme will remain in an assessment period.”

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## Pension scheme trustee creditor rights

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- 6.1** 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 (s137 of the Act).
- 6.2** All documents, such as notice of a decision, procedure, etc. should be sent to the PPF so it can be properly informed and exercise the creditor rights of the pension scheme in the insolvency. Contact details are shown at the end of this guidance.
- 6.3** 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.
- 6.4** During the assessment period, any sums recovered from the employer, for example a dividend payment in relation to the pension scheme's claim, should be forwarded to the scheme trustees directly.
- 6.5** In the event that 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.
- 6.6** 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 usually relinquishes its rights in relation to the creditor responsibility for the pension scheme. 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.
- 6.7** The IP 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 an IP may wish to flag to the PPF if they are aware of an attempt to sell the trustees' claim in the insolvency.
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## Employees and pensioners

- 7.1** 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.
- 7.2** This is because the trustees remain responsible for administering the scheme (subject to statutory restrictions) throughout the assessment period.
- 7.3** The trustees also remain responsible for the pension payments. Accordingly prior to insolvency it is critical that 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 separate guidance on Contingency Planning to assist IPs, employers and trustees.
- 7.4** In dealing with enquiries from employees or pensioners about the PPF more generally, and for a basic understanding of the compensation that may be payable, you may find it helpful to refer them to our website and the leaflet 'What is the PPF and what do we do?'



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.

## PPF expectations of Insolvency Practitioners during appointments

**8.1** The size of the pension scheme claim in the insolvency often makes it by far the biggest creditor of the estate. The PPF exercises the creditor rights under s137 to maximise the return.

**8.2** The claim may be on a secured or unsecured basis depending on whether the trustees had 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.

**8.3** The approach adopted by the PPF will be specific to the circumstance of the case and the following considerations may apply:

### 8.3.1 Fees

The level of remuneration charged by the professionals on an insolvency can have a significant impact on the return to the creditors.

To the extent that the PPF has voting power in the insolvency, it will always seek to ensure that the remuneration charged by the insolvency practitioner and their advisors fairly reflects the value added for the estate by the work they have carried out. In some situations, this is partly achieved by the use of firms who have agreed charge-out rates for work on PPF matters which are below their normal levels. However it is for the IP to demonstrate clearly how value has been added in all cases.

Specific guidance on IP fees is available on the PPF website.

### 8.3.2 Secured claims

The PPF approach will vary according to the type of security and asset covered by the security.

The PPF will seek to maximise the return from the security by realising it in the most cost effective and efficient manner. In the case of real estate, the appointment of a fixed charge receiver to manage and dispose of the property will always be considered.

In appropriate circumstances, the PPF will consider releasing its security (where it has no value) in order to participate in the Prescribed Part dividends.

### 8.3.3 Pre-packaged administrations

Pre-packaged administrations are an effective tool to maximise returns for creditors in certain circumstances. However, there is scope for them to be used inappropriately; a particular risk for the PPF is that they may be used primarily to avoid an employer's pension commitment. Accordingly, where such a situation arises, we will always take action to protect the scheme's/PPF interests.

Specific guidance on the PPF approach to pre-packaged administrations is available on the PPF's website.

## PPF expectations of Insolvency Practitioners during appointments

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#### 8.3.4 Case Management

Where the scheme / PPF is the largest creditor, the liabilities due to it are often as large as, or greater than, bank debt. In these circumstances the PPF will expect to receive the same level of consultation as a bank might expect to receive in similar situations. This will typically include:

- the appointment of other professionals
- asset disposal strategy
- ongoing or proposed litigation.

#### 8.4 Assistance with Administrators' Proposals

The PPF will vote on the Administrators' Proposals exercising the scheme trustees' rights. To assist administrators in their formulation these general points apply:

- Fees – the PPF will not agree to blanket consents to draw fees at a given rate. We will always ensure that the proposed rates are reasonable given the geographical location of the case and complexity of the assignment. Fees will always be approved on a 'request' basis after the IP has demonstrated the value provided to the estate.
- Creditor and liquidation committees – the PPF does not normally support the formation of committees. This is because the pension debt often represents by far the largest creditor claim, and the PPF or scheme trustees will have the greatest economic interest in the outcome for creditors as a result. The PPF can best influence the insolvency practitioner through direct contact. By maximising the value for the scheme/PPF as an unsecured creditor, all other unsecured creditors benefit as a result at no additional cost.

- Discharge of liability – administrators usually seek approval for this at the outset of a case when their proposals are submitted. The PPF will not agree to this because it believes the proper time to consider this is at the end of the case when the work has been completed. Further specific guidance on governance issues is available on our website.

#### 8.5 Changing Insolvency Practitioners

The PPF can use the creditor rights it holds to initiate the change of an IP on a case. 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 where the PPF has not been fully consulted in the run-up period to it being implemented.
- matters requiring investigation on the conduct of the case arise, necessitating the appointment of a new IP.

#### 8.6 Voluntary Arrangements

VAs may or may not have a direct impact on an employer's pension scheme. However, as an insolvency event they always trigger an assessment period and present risks to the pension scheme. The PPF approach will depend on the contents of the Company Voluntary Arrangement (CVA) proposal and specific guidance on CVAs are available on the PPF website.

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## Further information

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**9.1** Further useful and more detailed information on the PPF, for example the *Guidance for Trustees*, can be found on the PPF website:

**[www.ppf.co.uk](http://www.ppf.co.uk)**

**9.2** Detailed guidance for IPs on specific aspects of restructuring and insolvency case work can be found on the PPF website.

Detailed guidance for IPs is currently available on the following topics:

- The PPF legal standing and approach to governance of insolvency proceedings
- The PPF approach to Employer Restructuring
- The PPF's legal standing and approach to governance in insolvency proceedings
- IP remuneration
- Pre-packaged administrations
- Potential legal actions by IPs
- Creditor voluntary arrangements
- How PPF Drift arises and should be addressed
- Appointment of Independent Trustees.

**9.3** Guidance for IPs is periodically updated and new topics are added from time to time. This can be found at the webpage listed above.

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## Appendix 1: Insolvency events

### **'Insolvency events' in relation to a company** (s121(3))

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. the directors of the company file (or in Scotland, lodge) documents and statements with the court to begin a moratorium where the directors propose a voluntary arrangement
3. an administrative receiver is appointed in relation to the company
4. the company enters administration
5. a resolution is passed for creditors' voluntary liquidation or an administrator issues a notice which converts the administration to creditors' voluntary liquidation
6. a creditors meeting is held which converts a members' voluntary liquidation into a creditors' voluntary liquidation
7. 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 and, voluntary liquidations are not an 'insolvency event'.

### **'Insolvency events' in relation to a partnership** (s121(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 s12 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:
  - 3.1 (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
  - 3.2 (who is an administrator, liquidator or trustee) summons a meeting of the partnership and its creditors to consider the proposal
4. the members of the partnership file with the court documents and statements which begin a moratorium where the members propose a voluntary arrangement
5. the partnership enters administration.

## Appendix 1: Insolvency events continued

### Insolvency events in relation to an individual (s121(2))

An insolvency event occurs in relation to an individual where:

1. he is adjudged bankrupt or sequestration of their estate has been awarded
2. a nominee submits a report to the court pursuant to s256(1) or s256A(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 or contract
4. he has died and:
  - an insolvency administration order is made, or
  - a judicial factor appointed under s11A of the Judicial Factors (Scotland) Act 1889 is required by that section to divide the individual's estate amongst their creditors.

### Additional insolvency events (s121(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:

- 2.1 any of the events referred to in s121(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
  - 2.2 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 s87 of the Building Societies Act 1986, a building society insolvency under s130 of the Banking Act 2009, or building society special administration order under s158 of the Banking Act 2009
  4. in relation to a friendly society, where there is dissolution by consent of the members under s20 of the Friendly Societies Act 1992

## 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 s120(2) shall be in writing and shall contain the following information:

- the name or type of the notice issued
- the date on which the notice is issued
- the name, address and pension scheme registration number of the scheme for which the notice is issued
- the name of the employer in relation to the scheme for which the notice is issued
- the nature of the insolvency event that has occurred and the date of its occurrence
- the name of the IP acting for the employer in relation to the scheme
- 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
- the address for communications at which the IP may be contacted by the PPF in connection with the issue of the notice, and
- whether the notice issued contains any commercially sensitive information.



The nature of the insolvency event and the date of its occurrence will be included in the IP's notice.

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## Appendix 3: Information an IP should include in a notification of the scheme status (Regulation 9(3) of the Pension Protection Fund (Entry Rules) Regulations 2005)

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

- the name or type of notice issued
  - the date on which the notice is issued
  - the name, address and pension scheme registration number of the scheme for which the notice is issued
  - the name of the employer in relation to the scheme for which the notice is issued
  - 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
  - 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
  - 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
  - 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
  - if s122(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
  - a statement that the notice issued will not become binding until it has been approved by the PPF, and
  - whether, in the opinion of the IP or former IP, the notice issued contains any commercially sensitive information.
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## Appendix 4: Events triggering obligation to file a ceasing to act notice under s122(4)

### Companies

- Where the procedure for a voluntary arrangement has begun but for whatever reason no voluntary arrangement has effect.
- Where a company has entered a moratorium with a view to proposing a voluntary arrangement and the moratorium has terminated without a voluntary arrangement taking effect.
- 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 of the 1986 Act 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 s45 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 s114 of the Banking Act 2009.

### Partnerships

*References are to provisions of the Rules and of the Act as applied by an order under s420*

- Where the procedure for a voluntary arrangement has begun under s2 of the 1986 Act but for whatever reason no voluntary arrangement is in effect, or a moratorium with

a view to a voluntary arrangement has terminated without the voluntary arrangement taking effect, whichever is applicable.

- Where an administration order has been made in relation to the partnership under Part 2, 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.
- 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(4) (d) Pension Protection Fund (Entry Rules) Regulations 2005.

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*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 written by the PPF published on our website, not a substitute. We encourage restructuring and insolvency practitioners and trustees to seek appropriate specific case guidance.*

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