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| <p>The Pensions Regulator </p> | <p style="text-align: center;"><i>M. S. Harrison</i></p> <p style="text-align: center;">DETERMINATION NOTICE under section 96(2)(a) of the Pensions Act 2004 ("the Act")</p> <p style="text-align: center;">The Liberal Headquarters 1924 Pension Fund ("the 1924 Scheme")</p> | <p>The Pensions Regulator case ref: TM7876</p> |
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1. The Determinations Panel, on behalf of the Pensions Regulator, met on 27 April 2010 to decide whether to exercise a reserved regulatory function in relation to the issues in the Warning Notice dated 3 March 2010. The Pensions Regulator considered under section 10(2) of the Pensions Act 2004 ("the 2004 Act") that the exercise of a reserved regulatory function was appropriate.

2. **Matter to be determined:**

The function the Panel was asked to exercise was the application made by the Trustees of the 1924 Scheme supported by the Regulator

- (a) to modify the 1924 Scheme to enable the assets remaining after its liabilities had been discharged to be distributed to the Employer pursuant to Section 69 of the Pensions Act 1995 ("the 1995 Act").
- (b) to wind up the scheme on the basis that it is no longer required, under Section 11(1)(b) of the Pensions Act 1995.

3. **Parties**

The Warning Notice specified the following parties as being directly affected by the regulatory action outlined in the Warning Notice:



- (f) Liberal Democrat Party as the Employer

4. **Background**

- (a) The 1924 Scheme was given revenue approval on the basis that it is a defined benefit, occupational pension scheme. It has assets but no remaining members nor liabilities because it has, for all practical purposes, been superseded by other pension arrangement provided by the Employer.

(b) The Trustees have confirmed that it has no liabilities as:

- the last member to receive a pension from it died in 1968;
- all benefits have been secured in accordance with its provisions;
- there are no outstanding nominations nor is there any intention to ever making any such nomination again; and
- there are no further potential beneficiaries with a claim.

(c) The 1924 Scheme is a "registered scheme for tax purposes" as it falls within section 153 of the Finance Act 2004.

(d) The Trustees are not seeking a retrospective order.

5. **Decision**

(a) In the circumstances the Panel agreed that it was appropriate to make orders:

- i. under Section 69(1)(b) of the 1995 Act authorising the modification of the 1924 Scheme so that upon its winding up any surplus should be returned to the Employer; and
- ii. under Section 11(1)(b) of the 1995 that the 1924 Scheme be wound up commencing immediately on the basis that it is no longer required.

(b) The Pensions Regulator hereby orders that:

- i. That the Liberal Headquarters 1924 Pension Fund commence wind up proceedings with effect from 27 April 2010 subject to the provisions of Section 96(5)(a) of the 2004 Act.
- ii. This order is made because the Pensions Regulator is satisfied that the 1924 Scheme is no longer required and that the Scheme should be wound up immediately pursuant to Section 11(1)(b) of the 1995 Act.
- iii. In accordance with section 11 (4) of the 1995 Act, the Pensions Regulator directs that:
 - a. the Scheme be wound up within 6 months of its commencement subject to the following provisions; and
 - b. the Scheme be wound up in accordance with the provisions of Sections 73 – 75 of the 1995 Act (as modified by the Occupational Pension Schemes (Winding Up) Regulations 1996) and any relevant provisions of those regulations, or such other statutory provisions and regulations as may be in force from time to time may be applicable to winding up the Scheme.

- iv. That the Liberal Headquarters 1924 Pension Fund (“the Scheme”) should be modified pursuant to Section 69(1) of the Pensions Act 1995 and that the assets remaining after the Scheme’s liabilities have been discharged are to be distributed to the employer, the Liberal Democrat Party under Section 69(3)(b) of the 1995 Act.

6. Submissions of the parties

In making the determination the Panel took into account the evidence and submissions included in the Warning Notice. It also took into account the responses and submissions to the Warning Notice sent by:

- (a) Trustees’ Legal Advisors
- (b) Liberal Democrat Party

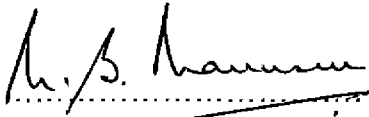
7. Statutory issues

In making their decision the Panel had regard to the objectives of the Regulator as set out in Section 5 of the Pensions Act 2004 and to the matters mentioned in Section 100, as set out in **Appendix 1**.

8. Reasons for decision

- (a) The Panel noted that whilst this was an application by the Trustees it was supported by both the Employer and the Regulator.
- (b) The papers contained a letter from the Employer that indicated that the application was made so that after the return of assets to the Employer and the deduction of tax that would have to be accounted for, the net assets of the 1924 Scheme would be contributed to another fund, [REDACTED]. The letter also indicated that the Employer intended to direct the Trustees to make a direct transfer of the net of tax assets to that fund.
- (c) On the basis of the evidence presented the Panel found:
 - i. The application was made by a competent person within the meaning of Section 69 of the 1995 Act;
 - ii. The 1924 Scheme is an occupational pension scheme as required by Sections 11 and 69 of the 1995 Act;
 - iii. The 1924 Scheme is registered under Section 153 of the Finance Act 2004;
 - iv. The 1924 Scheme is no longer required and it had no members and no liabilities;
 - v. Neither the Employer nor the Trustees have the power to amend or wind up the 1924 Scheme and that the purposes of the application cannot be achieved without the orders sought; and
 - vi. The requirements of Section 76(3) of the 1995 Act which have to be met before a return of assets to an employer were satisfied.
- (d) That taking account of the Objectives of the Regulator set out in Section 5 of the 2004 Act and the provisions of Section 100 of the 2004 Act the Panel considered that it was appropriate to make the orders sought.

9. The Panel directed that in carrying out the winding up the Trustees should have due regard to the Regulator's Guidance 'Winding up: Avoiding Delays' and any new version which may be issued while winding up is taking place.
10. **Appendix 2** to this Determination Notice contains important information about the rights of appeal of the parties against this decision.

Signed: 

Chairman: Michael Maunsell

Dated: 7 MAY 2010

Section 5 of the Pensions Act 2004
Regulator's objectives

- (1) The main objectives of the Regulator in exercising its functions are –
 - (a) to protect the benefits under occupational pension schemes of, or in respect of, members of such schemes,
 - (b) to protect the benefits under personal pension schemes of, or in respect of, members of such schemes within subsection (2),
 - (c) to reduce the risk of situations arising which may lead to compensation being payable from the Pension Protection Fund (see Part 2), and
 - (d) to promote, and to improve understanding of, the good administration of work-based pension schemes.
- (2) For the purposes of subsection (1)(b) the members of personal pension schemes within this subsection are-
 - (a) the members who are employees in respect of whom direct payment arrangements exist, and
 - (b) where the scheme is a stakeholder pension scheme, any other members.
- (3) In this section-

“stakeholder pension scheme” means a personal pension scheme, which is or has been registered under section 2 of the Welfare Reform and Pensions Act 1999 (c.30)(register of stakeholder schemes);

“work-based pension scheme” means-

 - (a) an occupational pension scheme,
 - (b) a personal pensions scheme where direct payment arrangements exist in respect of one or more members of the scheme who are employees, or
 - (c) a stakeholder pension scheme.

Section 100 of Pensions Act 2004
Duty to have regard to the interests of members etc

- (1) The Regulator must have regard to the matters mentioned in subsection (2) –
 - (a) when determining whether to exercise a regulatory function –
 - (i) in a case where the requirements of the standard or special procedure apply, or
 - (ii) on a review under section 99, and
 - (b) when exercising the regulatory function in question.
- (2) Those matters are –
 - (a) the interests of the generality of the members of the scheme to which the exercise of the function relates, and
 - (b) the interests of such persons as appear to the Regulator to be directly affected by the exercise.

Referral to the Tax and Chancery Chamber of the Upper Tribunal (“the Tribunal”)

You have the right to refer the matter to which this Determination Notice relates to the Tribunal. Under section 103(1)(b) of the Pensions Act 2004 (“the Act”) you have 28 days from the date this Determination Notice is given to refer the matter to the Tribunal or such other period as specified in the Tribunal rules or as the Tribunal may allow. A reference to the Tribunal is made by way of a written notice signed by you and filed with a copy of this Determination Notice. The Tribunal’s address is:

The Tax and Chancery Chamber of the Upper Tribunal
15-19 Bedford Square
London
WC1B 3DN
Tel: 020 7612 9649.

The detailed procedures for making a reference to the Tribunal are contained in section 103 of the Act and the Tribunal Rules.

You should note that the Tribunal rules provide that at the same time as filing a reference notice with the Tribunal, you must send a copy of the reference notice to The Pensions Regulator. Any copy reference notice should be sent to:

Determinations Support
The Pensions Regulator,
Napier House
Trafalgar Place
Brighton
BN1 4DW.

Tel: 01273 627698