

## Financial Assistance Scheme

### Trustee Update – dated 12 August 2008

This update is for Trustees, Administrators and members of FAS Qualified schemes. Please make its contents available to colleagues within your organisation.

<b>Subject:</b>  <b>New Stewardship Arrangements</b>	Financial Assistance Scheme (FAS) PO Box 702 York YO32 9XR Tel: 0845 6019941 Email: <a href="mailto:FAS-Operational-Unit@dwpgsi.gov.uk">FAS-Operational-Unit@dwpgsi.gov.uk</a>
--	--

### Background

1. Since the Government announced its intention to take in residual assets of qualifying FAS schemes and make associated payments as they fall due, it has been clear that the FAS would need to widen the focus of its interaction with qualifying schemes to include a more detailed awareness and supervision of the wind-up process. As you may be aware, earlier this year the Pensions Regulator (tPR) issued a Regulatory Statement in conjunction with the FAS and the Pensions Protection Fund (PPF). As a result, we are now focussing on ensuring that schemes complete all the necessary tasks to wind-up as efficiently as possible with the aim of meeting the two-year target set out in the statement for the majority of FAS qualifying schemes.
2. The Financial Assistance Scheme (Miscellaneous Amendments) Regulations 2008 which came into force on 17 July gave powers to the Board of the PPF to manage schemes through the wind up process. Since then, we have been working with the PPF to identify the systems we will need to support trustees in wind-up. However, it will be imperative that the FAS also continues to work to make assistance payments to all qualifying members at their normal retirement age, wherever possible.

### How this work will begin

3. We will initially be focussing on obtaining information from qualifying schemes to understand what stage they have reached in the wind-up process. Once we understand the position of these schemes, we will be considering how we can support trustees in moving matters forward, where appropriate.
4. Throughout this process, it is our intention to maintain a dialogue with trustees through a programme of events and visits to understand the key issues facing

qualifying schemes in wind-up and to explain our expectations and requirements as we develop and understand the structure of the new assistance model.

5. The first phase of this work will begin shortly, when we will begin asking trustees to provide us with information on their progress through wind-up for scheme in their FAS portfolios by issuing our stewardship report forms for completion. As well as basic information about scheme advisers, these forms will ask for details about;
  - budgets for scheme expenses
  - scheme assets, and
  - key tasks completed during wind-up to date
6. We do not plan to issue these forms to all schemes at once and will be conducting this work in phases. Trustees will be notified individually about when they will receive these forms for their schemes. Each scheme will have four weeks to complete the stewardship report forms.
7. In September, we will also begin a programme of engagement with administrators as they are key to our continued requirement to receive accurate data from schemes and to continue to increase the numbers of members receiving assistance payments. They will also play a leading role in preparing scheme data for eventual transfer to the FAS.

### **What does this mean for schemes?**

8. Trustees remain responsible for the day-to-day running of schemes during the wind-up process. We know that other scheme professionals will be advising trustees and taking the lead in completing certain aspects of the work required. However, it is vital that trustees maintain adequate control and overview of what is being done to progress the wind-up especially in the core areas of administration/payroll and management of assets. This is essential in ensuring that the wind-up is completed as efficiently as possible without excessive cost. Given the intention to transfer scheme data to the FAS and any residual assets to Government, we will be looking more closely at the trustees' management of this process as well as ongoing requirements for data.

### **Project management approach**

9. We explained in our previous update that we intended to adopt a project management approach in order to manage qualifying schemes through the wind-up process. This means that we will ask trustees to demonstrate a clear understanding of:
  - the key tasks that remain to be done to complete the wind-up on each qualifying scheme within their portfolio.
  - which of the scheme professionals is responsible for completing each key task
  - the likely timescale for completion for each key task

10. Our view is that the adoption of this type of approach should allow trustees to;

- organise and prioritise tasks
- identify opportunities to undertake tasks concurrently
- monitor progress towards completion of the wind-up
- consider mitigations or contingency planning in good time to minimise delays

11. In addition, a greater understanding of the progress of wind-up of qualifying schemes will allow the FAS to make timely requests for data and information as schemes move through the wind-up process. It will also help us to understand when we can expect schemes to be ready to annuitise or begin preparation for transferring assets to the FAS.

12. We hope that working with the PPF in this way will allow qualifying schemes to benefit from the PPF's experience of dealing with a range of issues concerning schemes in wind-up.

13. Another key area where trustees are likely to notice a marked change in the FAS approach is that we are now more likely to ask trustees to provide supporting documentation to verify important milestones within the scheme wind-up.

14. This will involve providing supporting documentation to verify:

- the timing and detail of key decisions
- the basis or reasoning behind key decisions
- that actions have been taken in accordance with scheme rules or presiding legislation

15. We will not ask for this level of detail in respect of all aspects of the wind up for each scheme. It will be requested as appropriate, taking into account the individual scheme circumstances and following the receipt of the relevant information requested on the stewardship form.

### **Trustee responsibilities and accountability to FAS**

16. As further legislation and operational processes are developed to allow Government to take in assets, trustees will be expected to meet the requirements set by the FAS to allow the transfer of assets and/or scheme data.

17. However, until these structures are in place, trustees continue to have fiduciary duty to act in their members' best interests. However, we would expect trustees to take taxpayers' interests into account when making decisions in their schemes. In particular, we would not expect trustees to select against the taxpayers' interests where this causes no detriment to members.

18. For example, where trustees are aware of money owed to the scheme, or where the trustees may have a legitimate claim against a third party, we would not expect trustees to abandon any attempt at recovery simply because this action would not bring in sufficient assets to bring the overall funding levels to above FAS levels. Although recovery of additional funds may not significantly increase member

benefits overall, failure to recover funds appropriately has the effect of increasing FAS liabilities across qualifying schemes.

19. Therefore, in these situations we would expect trustees to act in accordance with the guidance given in Trustee Update No 9 dated 6 March 2008 available on our website at - [www.dwp.gov.uk/lifeevent/penret/penreform/fas/information.asp](http://www.dwp.gov.uk/lifeevent/penret/penreform/fas/information.asp)
  
20. This means that they should undertake a cost benefit analysis of any proposed action, weighing the cost of proceeding with the action with the overall benefit to the scheme of a positive outcome, along with the likelihood of success. Where there is little or no detriment to members' benefits but it is reasonable to proceed to protect the public purse, we would expect trustees to consider this course of action, given that any reduction of the burden to the taxpayer will indirectly benefit the members of these schemes.

### **Next steps**

21. We will contact each trustee when we are due to issue their stewardship forms to them. The forms will be issued electronically. We will take account of the size of an individual trustee's portfolio and where necessary we will request the stewardship forms for their portfolio of schemes in small batches.
  
22. Any trustee who has any concerns about the content of this update or issues in progressing the wind of their schemes should contact the FAS Operational unit on 0845 601 9941. We will be issuing further updates as policy regarding the revised scheme develops. Further details are available on our website at [www.dwp.gov.uk/fas](http://www.dwp.gov.uk/fas).