



WITHOUT PREJUDICE

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We all have friends who have been bickering for years, where the love is lost and they share no common interests. Everyone knows that a break-up is on the cards and the local publican is running a spread bet of between one and five years.

Like all lawyers, being compassionate and sensitive, I am tempted after a Cinzano to say 'break up now, it's only going to hurt people more otherwise, and both of you could end up insolvent after a messy divorce'.

Shouldn't we show the same compassion to an employer and a pension scheme where it's clear that the cost of running the scheme will eventually be intolerable and push the company under? My fear is that some employers will limp on with their schemes and undermine their business as a result; there could be significant job losses and the deficit in the scheme could be growing ever larger with a greater call on the Pension Protection Fund (PPF) in the future.

My question is: can't there be a system where the PPF and the employer enter into an arrangement now, rather than prolonging matters? Don't get me wrong, as both a trustee and adviser I am not proposing abandonment in any way. But isn't there a case for government to broaden the circumstances in which the PPF will enter into an arrangement with the employer, rather than the employer having to prove that insolvency is imminent and unavoidable?

I appreciate the argument that hundreds of employers could flood the PPF's offices in Croydon pleading their case, and I understand the logic behind the PPF's current stance, but why not have the debate?

Options could include:

- the PPF taking on part of the liability of a scheme with the employer sharing the remainder;
- the PPF providing some statutory underpin without the need for the scheme to formally enter the PPF on the basis that the lifeboat has certain controls over the scheme for example in respect of investments;
- an agreed set of ratios on debt or other financials that allow a scheme to enter the PPF without there being an imminent insolvency risk;
- an exploration of alternatives to the PPF taking shares – for example a new statutory claim to income stream or the extension of the financial support direction and contribution notice powers;
- for the PPF to have its own tailored clearance function (or for the Pensions Regulator to expand its clearance function not just to cover detrimental events but also to cover new wider ranging PPF applications);
- for schemes to be permitted only to pay PPF levels of benefit rather than the scheme enter into the PPF.

I am not pretending to have all the answers and there may be variations on these themes. What I do feel is that at the moment, breaking up is hard to do, and there is a real argument for government to step in to start a new debate.