

# Regulator publishes revised report on Uniq plc Pension Scheme

The Pensions Regulator (the regulator) published a Section 89 report in relation to the **Uniq plc Pension Scheme** in March 2012. Since publication, it has become clear that the wording of one particular passage has caused confusion amongst some practitioners.

It was stated in the report that the regulator's view that its moral hazard powers were not available in that case '**was informed by the fact the key transactions and corporate events affecting the size of the Group took place before those powers were in place**'.

Some readers appear to have interpreted that statement as meaning that the regulator believes that it cannot take into account acts or events that pre-date the Pensions Act 2004 when considering **the reasonableness of** the exercise of its moral hazard powers. However, the statement was not intended to suggest that the timing of the central transactions and events in that case formed part of an analysis specifically of **the reasonableness of** the use of moral hazard powers.

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Instead, in the **Uniq** case, the fact that certain transactions and events took place prior to 27 April 2004 meant that certain entities that might otherwise in principle have fallen within the scope of moral hazard powers were not associated or connected with any employer in respect of the Scheme, and therefore did not fall within the moral hazard jurisdiction. Equally, since the acts were prior to 27 April 2004 they could not form the basis of a contribution notice case. In view of the position on jurisdiction, the question of reasonableness in respect of these entities did not arise.

As a number of Determinations Panel decisions illustrate, the regulator's position is that it is able to consider events that pre-date the Pensions Act 2004 when assessing the reasonableness of an exercise of its moral hazard powers in respect of entities falling within the jurisdiction.

Any decision made by the regulator is made on the particular facts of the case before it.

In the circumstances, the regulator is publishing a revised report under s89 of the Pensions Act 2004, dated May 2013, which includes a footnote on page 3, clarifying the point: [www.thepensionsregulator.gov.uk/docs/section-89-uniq.pdf](http://www.thepensionsregulator.gov.uk/docs/section-89-uniq.pdf)

## How to contact us

Napier House  
Trafalgar Place  
Brighton  
BN1 4DW

T 0845 600 0707  
F 0870 241 1144  
E [customersupport@thepensionsregulator.gov.uk](mailto:customersupport@thepensionsregulator.gov.uk)

[www.thepensionsregulator.gov.uk](http://www.thepensionsregulator.gov.uk)  
[www.trusteetoolkit.com](http://www.trusteetoolkit.com)

### Statement

Revised report on the Uniq plc Pension Scheme

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