

The Pensions Regulator	Standard Procedure DETERMINATION NOTICE under sections 3 and 7 of the Pensions Act 1995 and section 96(2)(d) of the Pensions Act 2004	The Pensions Regulator case ref: C91347260
---------------------------	--	--

1. The Determinations Panel (“the Panel”), on behalf of the Pensions Regulator (“the Regulator”), met on 3 November 2017 for an oral hearing to decide whether to exercise a reserved regulatory function in relation to the issues in a Warning Notice dated 27 March 2017. The matter was referred to the Panel on 18 August 2017 following a period for representations and responses.

Matters to be determined

2. In the Warning Notice the Panel was asked to determine whether to make an order under section 3(1) of the Pensions Act 1995 (“PA 95”) to prohibit Mr Thomas Christopher Wrigley from acting as trustee of trust schemes in general or, alternatively, from acting as trustee of the Danapak Flexibles Retirement Benefits Scheme (“the Scheme”).
3. The Panel was also asked to determine whether to appoint an independent trustee to the Scheme pursuant to section 7(1) or 7(3)(a), (b) (c) and/or (d) PA 95 and, if so, to determine whether such trustee should be appointed with exclusive powers and whether related orders should be made under sections 8 and 9 PA 95.

Decision

4. The power to prohibit a trustee under s.3(1) PA 95 is a reserved function under paragraph 4 of Schedule 2 to the Pensions Act 2004 (“PA 04”) and can therefore only be exercised by the Panel. The power to appoint an independent trustee under sections 7(1), 7(3)(a), (c) and (d) are reserved powers and can only be exercised by the Panel. The executive arm of the Regulator may appoint an independent trustee under section 7(3)(b) but the appointment of an independent trustee under this subsection may also be considered and exercised by the Panel.

5. The Panel determined to:
 - (1) Prohibit Mr Thomas Christopher Wrigley, from acting as trustee of trust schemes in general.
 - (2) Appoint an independent trustee of the Scheme, Pi Consulting (“Pi”), pursuant to sections 7(1), (7)(3)(a), (c) and (d) PA 95, with Pi’s powers to be exercisable to the exclusion of the other trustees, pursuant to section 8(4)(b) PA 95.
 - (3) Provide that the fees and expenses of Pi be paid from the resources of the Scheme and be treated as a debt due from the Scheme employer, Discovery Flexibles Limited (“the Employer”).
 - (4) Vest the assets of the Scheme in Pi as independent trustee.
6. The reasons for the Panel’s decision are set out below.

Directly Affected Parties

7. The Panel considers the following parties as being directly affected by this determination:-
 - (i) Mr Thomas Christopher Wrigley
 - (ii) Mr John Roger Moore
 - (iii) Mr James Alexander Urquhart
 - (iv) The Employer

Details of the scheme and employer

8. The Scheme is a defined benefit occupational pension scheme with an approximate membership of 248 members. It has assets of approximately £25 million. The Employer is a manufacturing business in the packaging sector.
9. Mr Wrigley is the CEO and (indirect) majority shareholder of the Employer. He was appointed as director of the Employer on 23 May 2008. He is also the chair of the Scheme’s trustees (“Trustees”). At the oral hearing and in his representations, he explained in detail his business background and the background to his involvement in the Employer. Mr Wrigley stated that he had purchased the Employer for £1 in 2008 and that the business had brought-forward losses of £11.5 million at the time of purchase. He stated that without his involvement the Employer would have entered into an insolvency process, with the Scheme falling into the Pension Protection Fund (“PPF”). Mr Wrigley’s account, which the Panel accepted, was that he was an experienced businessman who had bought numerous businesses in similar circumstances over a number of years,

and had enjoyed a significant degree of success in restoring them to viable trading entities.

The Trustees

10. Mr Wrigley is a trustee of the Scheme, and chair of the Trustees, having been appointed on 5 November 2008. Mr Wrigley currently does not act as the trustee of any other pension scheme, although previously he acted as scheme administrator of another scheme in respect of which he had a connection to the sponsoring employer. Prior to the matters described below, no complaint has been raised with or by the Regulator about Mr Wrigley's conduct as a trustee.
11. There is no dispute that, up to 9 January 2017, Mr Moore was also a trustee of the Scheme. However, there has subsequently been some confusion as to whether or not he has continued to be a trustee of the Scheme. This is because, as is referred to in more detail below, on 10 January 2017, Mr Moore sent an email to Mr Wrigley purporting to resign from the Scheme "*with immediate effect*". Mr Moore also stated in an email to the Case Team of the Regulator ("the Case Team") dated 11 January 2017 that he had resigned from the Scheme. In the Warning Notice, the Case Team stated that Mr Moore had resigned as trustee and that his resignation had taken effect.
12. In his representations in response to the Warning Notice ("the Representations"), Mr Wrigley stated that Mr Moore had since informed him that he was unable to resign as a trustee. This appears to be because the Scheme's governing documents state that the Employer may by deed remove any trustee from office provided that there "*shall at all times be at least two individuals or a single corporate body acting as trustee*". Mr Moore's resignation would have left Mr Wrigley as the sole trustee. As is described further below, Mr Moore also received legal advice that his resignation had not taken effect. In its response dated 13 July 2017 to Mr Wrigley's representations ("the Response"), the Case Team accepted that there was uncertainty as to Mr Moore's status as trustee.
13. It appears that, from at least August 2017, Mr Wrigley made attempts to appoint Mr Urquhart as a trustee and remove Mr Moore. However, it appears that Mr Moore did not execute the deed provided for his signature.
14. On 26 September 2017, a deed was executed appointing Mr Urquhart as trustee of the Scheme.
15. Both Mr Moore and Mr Urquhart were given the opportunity to, but did not, put in substantive representations to the Panel.

Background to regulatory action

16. The matters relevant to the Panel's exercise of its powers arise from a proposal by Mr Wrigley for the Scheme to make an investment in the Employer in the sum of £1.2 million, consisting of a £750,000 investment in fixed assets and a £450,000 investment in finished goods.
17. On 23 November 2016 at 10.49 Mr Wrigley sent an email to Mr Moore, copied to Mr Urquhart and a Mr Kelly, as well as to Mr Julian Fox of the JLT Group of pension advisers. This email stated

"We are allowed to use up to 5% of the scheme to buy assets in the sponsoring employer.

I would like the scheme to buy £750k of fixed assets which is the independent valuation and £450k of the finished goods which are independently valued at £1m...

...The Trustees should approve this deal because:

Our biggest customer now turns over £2.3m. Six years ago it was £6m. They are actively moving all their business to Flexo so we stand to lose 1/3 of our turnover if we don't buy a Flexo press. On the other hand they promise at least £1m extra work if we buy a Flexo press. They won't put this in writing.

DFL [the Employer] are not in a position to buy a Flexo press at the moment; it's a £2m investment. However with the investment outlined above DFL can finance the rest.

I suggest that, as Trustees, it is no less than our responsibility to do this deal in order to protect the Company Covenant.

Please would you ring me to discuss..."

18. Mr Wrigley stated at the oral hearing that he had come up with the idea whilst on holiday, and had used Google to find out the rules on investing Scheme assets in the Employer. Mr Wrigley explained, and it was not disputed by the Case Team, that a Flexo press would have been of significant assistance to the Employer, but that, at the time he made the proposal, the Employer could not afford to purchase such a press without external sources of funding. Mr Wrigley stated that the Employer had since managed to purchase a Flexo press through a different arrangement, organised by him.
19. Later on 23 November 2016, at 11.53, Mr Wrigley emailed Mr Fox asking for details of the Scheme's solicitors, "so I can get this moving please". Mr

Wrigley then sent a further email to Messrs Moore, Urquhart, Kelly and Fox stating:

"I forgot to mention that we need to move fast. Lead time on a press is about 1yr by which time Burtons will have moved all their work away. [REDACTED] has found a ready built press from KBA (read Rolls Royce) which is the dogs danglies. 600 mpm! ... But they are going to sell it to someone else if we don't commit imminently."

20. Later that day, Mr Wrigley emailed Hewitsons, the Scheme's solicitors, asking for *"a price and timescale for doing the necessary legals for completing as described below. This is urgent as we either complete on the press below [week commencing] 5/12 or wait a year for them to build a new one. Please could you reply today."*

21. Mr Moore replied that evening to Mr Wrigley, copied to (amongst others) Hewitsons and JLT, and stated that:

"There are clearly many aspects and issues to be considered before trustees are able to take any decisions or action in these matters, not least of which is the need to obtain relevant written reports and independent advice. I can understand the urgency; however, I cannot see how the due process can be accomplished within the timescale."

Mr Moore also stated that he was due to be on holiday for 3 weeks from 25 November 2016.

22. The next day, Mr Wrigley replied to Mr Moore, removing Hewitsons and JLT from the thread, stating:

"I specifically asked you to keep the curve balls between the 4 of us. This [your] email shares them with JLT and Hewitsons. If you had just shared them with us I could have allayed your concerns. Now Hewitsons and JLT have an excuse not to perform. I will address your thoughts in my reply to Hewitsons."

23. Mr Moore responded stating that, *"I'm not sure how to answer this nor what you are implying with regards to the performance (or non-performance?) of Hewitsons and JLT."* Mr Moore referred to the Regulator's guidance on Employer-Related Investments and stated, *"In my book that's not a 'curve ball'. It's pretty straight and to the point."*

24. Mr Wrigley then spoke to JLT, and then, on 14 December 2016, JLT sent to Mr Wrigley a list of the *"main items that will need to tackled [sic] as part of the process."* These were:

- (i) separate legal advice for the trustees and the Employer *"to ensure the issues around Employer Related Investment as [sic] satisfied"*;

- (ii) covenant advice as to the position of the Employer with or without the Flexo press;
- (iii) an independent valuation of the machinery;
- (iv) dealing with practical considerations “*such as who is responsible for maintenance, management of assets, rental agreements, storage etc*”;
- (v) a valuation of the asset for the Scheme’s statutory accounts and actuarial valuation report;
- (vi) satisfying the investment regulations and “*ensuring the proposition is attractive enough for the trustees to want to invest.*”
- (vii) “*Managing conflicts – given your conflict as CEO an additional trustee on the board would be useful, preferably an independent professional trustee.*”

25. JLT did not however advise Mr Wrigley against taking any part in the process. Nor did they state that the appointment of an independent trustee was essential.

26. Mr Wrigley responded to JLT on 24 December 2016, copying Hewitsons, amongst others. He stated that his understanding from Hewitsons was that they “*will advise the Company as well as the Trustees although their main focus is on the Trustees/Scheme and ERI*”; he stated that covenant advice had been received and that an independent valuation of the assets was available; that “*Satisfaction of legal requirements will be dealt with in the legal documents*”; that responsibility for matters such as maintenance would remain with the Company; and indicated that a covenant review would be forwarded. Mr Wrigley also stated that, “*We are not intending appointing an additional trustee at present.*”

27. Shortly beforehand, Mr Wrigley had emailed Mr Moore, copying in Mr Urquhart, stating that he had been doing further work on due process. Mr Wrigley repeated his rationale for the transaction stating:

“Discovery Flexible (DFL) is the sponsoring employer for the DFRBS [the Scheme]. If DFL fails DFRBS will fall into the PPF. However well the Trustees fulfil their various duties it will be to no avail if DFL becomes insolvent. Whilst DFL is solvent there is opportunity to address the DFRBS deficit. This is a very simple truth.

The Trustees’ primary responsibility is to maximise the benefits to DFRBS pensioners, be they active or deferred. The Trustees are also obliged to work within the law...

Having convinced myself that the most advantageous thing the DFRBS Trustees can do for the members is to ensure the DFL Covenant remains intact I need to consider how to do that...”

28. Mr Wrigley repeated the reasons why he believed that the Employer needed a Flexo press and then stated: “*I should add that I recognise that*

you may feel I am pressuring you into a hasty decision by emphasising the urgency. That is not my intention; as Trustees we must follow due process. Without cutting any corners whatsoever we can ensure that we do that in a timely fashion."

29. Mr Wrigley then confirmed that he had Googled the requirements concerning Employer-Related Investments and that he had "discovered" that it was not legal for a pension fund to lend money to the sponsoring employer, but that 5% of the assets could be used to "buy assets of the Sponsoring Employer."
30. On 5 January 2017, Mr Nuttall of Hewitsons sent an email of advice to Mr Wrigley. In summary, this advised that £450,000 of the proposed investment would not be permitted as it was effectively a loan to the Employer, and that it was also difficult to see how that part of the proposal could be considered a suitable investment. As to the remaining £750,000, Hewitsons indicated that this might be permissible, but various requirements would need to be met. On the question of conflicts of interest, Hewitsons noted that the Scheme had only two trustees and that, if the company trustee, i.e. Mr Wrigley, were conflicted and "opts to deal with that conflict by abstaining" from votes relating to the proposal, it would not be possible to have a majority unless a third, non-conflicted trustee were appointed. Hewitsons said that the additional trustee could be an independent trustee. Hewitsons also advised that, "conflicts will need to be disclosed, managed appropriately and recorded in deciding whether to proceed with the investment. The trustees may therefore want to consider appointing an additional trustee before taking any decisions on the proposal." Hewitsons did not inform Mr Wrigley that he was acting inappropriately in putting forward the proposal.
31. Mr Wrigley replied to Mr Nuttall's email on 7 January 2017. This stated,

"As always, a lot of words that can be dealt with in a lot fewer.

The Trustees, John and I, are the people on the hook if we break the law. Really? No Shit Sherlock! We Know That!

Then you bring in a load of crap that you have not been asked for.

The bit that really pisses me off is "in both instances you bring in a legal point etc...", I bring in a legal point to ask my lawyers whether I am being correct legally. That is my lawyers [sic] job. I expect my lawyers to advise me about staying within the law. That will be you!!!! Not to serve up verbal garbage. I am being treated like a fool. We pay you to make sure we are working within the law. We don't pay you to write crap. So answer the legal question.

I am aghast!

The answers are that DFRBS CAN BUY THE FIXED ASSETS OF DFL AT FORCED SALE VALUE isn't it?

And that DFRBS cannot buy the finished goods.

Am I right?"

32. On 9 January 2017, Mr Moore emailed Mr Nuttall and Mr Wrigley disassociating himself from the email of 7 January 2017. On 9 January 2017, Mr Wrigley replied stating to Mr Moore, *"You uselessly wasted well over £100k of my cash in 2008. You weren't looking after your pensioners. You were cowardly covering your own ass!"* Mr Wrigley explained at the oral hearing that this concerned fees incurred by Mr Moore as trustee, at the time that Mr Wrigley purchased the Employer. The Panel did not have any substantiating evidence that, nor is it necessary to consider whether, any criticism of Mr Moore was justified in respect of the events in 2008.
33. Mr Moore responded to Mr Wrigley stating, *"As you say your position as Trustee is seriously conflicted. My position as Trustee is no longer tenable. The Scheme (DFRBS) needs to appoint an Independent Trustee immediately. Accordingly I hereby RESIGN as a Trustee of the Danapak Flexibles Retirement Benefits Scheme with immediate effect."* Mr Wrigley responded on 11 January 2017 stating, *"Of course, I am conflicted. I have to agree that is the legal position. I have looked and can't find it so unless you can show differently I think the phrase "seriously conflicted" is something you made up. Also your phrase "The Scheme (DFRBS) needs to appoint an Independent Trustee Immediately" is something that you have made up."*
34. Also on 11 January 2017, Mr Nuttall responded to Mr Wrigley providing further advice. He confirmed that the Scheme could not purchase the finished goods, but reiterated that the remainder of the proposal might be acceptable if the Trustees dealt with various issues. Mr Nuttall also provided advice on Mr Moore's resignation, recommending either that a member-nominated trustee election process be run, or that an independent trustee be appointed.

The Regulator's involvement

35. On 11 January 2017, Mr Moore wrote to the Regulator raising concerns about the Scheme, specifically, *"That there is potential for a breach of law relating to Employer Related Investments and That [sic] the scheme is now vulnerable around the management of Conflicts of Interest."* Mr Moore noted that there was not a breach of law but that if the original proposal were to proceed, there was the potential for that to happen. Mr Moore also stated that his view was that an independent trustee should be appointed immediately.

36. On 20 January 2017, Ms Suter of the Case Team wrote to Mr Wrigley by email at 14.45 raising the restrictions on Employer-Related Investments and asking for confirmation by 5pm on the same day that Mr Wrigley understood the restrictions and would not take any action in contravention of them. 38 minutes later, Ms Suter emailed Mr Nuttall stating that, *"We have today tried to contact Mr Wrigley on an urgent matter, please see below, and have not yet received a response. I would be grateful if you could assist in forwarding this on to the trustees as a matter of urgency."*
37. Mr Wrigley appears to have attempted to email back Ms Suter later that day, and at 22.03 sent her an email stating that he had replied to her message on the Regulator's email portal but *"it does not seem to record replies so I cannot tell if you have got it"*. Mr Wrigley then emailed Ms Suter again at 08.02 the following morning giving the requested confirmation.
38. Mr Wrigley stated to the Panel that he had already decided that the proposal would not go ahead. His position was that he had understood that the £450,000 element of the £1.2 million investment was not permitted and so the investment was not feasible. He also stated that he realised that, without Mr Moore's support, the investment could not proceed, and this would not be forthcoming.
39. On 27 January 2017, Ms Suter wrote to Mr Wrigley requesting:
- (1) A detailed summary of the proposed investment(s);
 - (2) Copies of any advice sought with regard to the investment(s), together with a copy of the requested scope for any advice;
 - (3) Copies of any trustee meeting minutes where the investment(s) were discussed;
 - (4) Details of his proposed approach to address the resignation of Mr Moore to ensure compliance with the requirements; and
 - (5) A copy of the Scheme's conflicts policy and register.
40. Mr Wrigley replied the following day stating, *"There is no proposed investment"*. He did not provide any further information. Ms Suter responded on 30 January 2017 thanking Mr Wrigley for his confirmation but asking for responses to her requests at points (4) and (5) at paragraph 39 above. She asked for a response by 5pm the following day. However, some seven minutes later, Mr Wrigley responded stating, *"I really don't know how to reply reasonably Katie. Get lost. Go to hell. What more do you need?"* Ms Suter replied later on 30 January 2017 informing Mr Wrigley of the Regulator's ability to make a request under s.72 PA 04 ("s.72 request"), and reiterating her previous requests. She also asked Mr Wrigley to provide in the same timeframe, *"All correspondence between the trustees and meeting minutes plus supporting papers regarding the proposed investment"*.
41. By 2 February 2017, Mr Wrigley had not responded to the request. The Regulator issued a s.72 request on that date asking for:

- (1) Details of Mr Wrigley's proposed approach to address the "resignation" of Mr Moore, to ensure compliance with "the requirements".
 - (2) A copy of the Scheme's conflicts policy and register.
 - (3) All correspondence between the trustees and meeting minutes plus supporting papers, regarding the proposed investment into the Employer.
42. However, Mr Wrigley replied on the same day stating, "*Katie, You are really getting on my nerves. Who on earth do you think you are?*" On 17 February 2017, Mr Wrigley was sent what appears to be an automated reminder from the Regulator's email system. Mr Wrigley appears to have taken this to be a further email from Ms Suter. He emailed her stating, "*Hi Katie, This is the third email you have sent me. I refuse to go on your portal. If you cross me again I will come after you, personally, with my legal team.*" Mr Wrigley then sent Ms Suter a further email on 20 February 2017 stating, "*I have just opened a disgraceful letter. This is your last chance. Leave me alone or I will retaliate.*" The Panel infers that the "disgraceful letter" was the letter of 2 February 2017 containing the s.72 request.
43. In the meantime, Mr Moore confirmed in an email to Ms Suter dated 17 February 2017 that a notice had been sent to Scheme members seeking nominations as Member-Nominated Trustee.
44. On 2 March 2017, Mr Moore emailed Hewitsons, amongst others, stating that his understanding was that his resignation could not become effective unless there were two other trustees in place, and asking what his position was. On 3 March 2017, Hewitsons provided advice on Mr Moore's position. It stated that he could not be discharged as a trustee until another trustee was appointed. However, on 28 April 2017, Mr Moore emailed JLT, Hewitsons and Mr Wrigley stating that he had resigned as a trustee on 10 January 2017 and that, "*The Pensions Regulator no longer considers me a trustee*" so he would not be attending the trustee meeting on 2 May 2017. The Panel has concerns about Mr Moore taking this approach, given the clear advice from Hewitsons to the contrary.

Subsequent events

45. The Regulator subsequently issued a Warning Notice and Mr Wrigley submitted the Representations. The Case Team then put in its Response, following which Mr Wrigley was given a little under 2 weeks to respond. By an email of 18 July 2017, Mr Wrigley complained that this was insufficient time and argued that the Regulator had taken far longer to provide its Response to Mr Wrigley's representations. The Case Team granted a three-week extension to 17 August 2017, but Mr Wrigley asked to have until the end of November 2017 to reply. This request was refused by the Case Team. Following further correspondence concerning the date for representations, the Case Team stated that it would not enter

into further correspondence on the matter. On 24 July 2017, Mr Wrigley wrote to the Regulator stating,

"I sent tPR my olive branch this morning and tPR snapped it in half.

There are 3 words that describe tPR entirely.

1. BULLY

Katie Suitor [sic] sent me an email and 38 minutes later she sent an email to our scheme solicitors stating, "Mr Wrigley has not responded". I will just repeat that..... "38 minutes."

..."Bully".

2. Cowardice

What kind of a person has to reply to me as "The Pensions Regulator"? At least have the backbone to tell me who I am talking to. tPR knows who I am. It is contained in my email address and telephone number.

... Whimp [sic]

3. Arrogance

"tPR will not be engaging in any further correspondence...". Well, I am not going to engage with that game with tPR either. 2 can play at that. It took tPR, with all its resources, nearly 4 months to reply to me. I will reply by 30th November 2017. Not a day sooner.

...Arrogance."

46. In the meantime, Mr Wrigley arranged for Mr Urquhart to be appointed as a trustee of the Scheme. On 1 August 2017 he emailed copies of a deed of appointment and removal to both Mr Moore and Mr Urquhart, asking for it to be signed by them. However, Mr Moore failed to execute the deed and he was chased for his signature by Mr Wrigley on 9 August 2017. Mr Wrigley also attempted to telephone Mr Moore on a number of occasions about the need to sign the document. On 17 August 2017, Mr Moore emailed back to state that he had been on holiday in France, that, "As we are touring, internet access is difficult", and that he had not received any documents by the time he left for France. He also stated that he assumed that Mr Wrigley's missed calls did not require a response. The following day, Mr Wrigley renewed his request for Mr Moore to sign the documents. Mr Wrigley noted that he had sent emails to Mr Moore about the documents before Mr Moore had left for France and that he found it unlikely that Mr Moore would have thought that he was not required to respond to any of Mr Wrigley's telephone calls.

47. It appears that Mr Moore still has not executed the deed for his removal, but that, as stated above, Mr Urquhart was appointed by a deed of

appointment dated 26 September 2017. It is not clear why Mr Moore has not subsequently been removed by the other trustees. Mr Wrigley stated at the oral hearing that there were issues with the Member-Nominated Trustee requirements, but no details were provided of this. The Panel does not make any finding in this regard.

The Law

48. Section 3 of the PA 95 states as follows:-

“Prohibition orders

(1) The Authority may by order prohibit a person from being a trustee of-
(a) a particular trust scheme,
(b) a particular description of trust schemes, or
(c) trust schemes in general,

if they are satisfied that he is not a fit and proper person to be a trustee of the scheme or schemes to which the order relates.

(2) Where a prohibition order is made under subsection (1) against a person in respect of one or more schemes of which he is a trustee, the order has the effect of removing him.

...

(6) The Authority must prepare and publish a statement of the policies they intend to adopt in relation to the exercise of their powers under this section.”

49. The Regulator has published a statement on prohibition orders (“the Prohibition Statement”) dated July 2016. This states that the Regulator will consider (amongst other matters) a trustee’s honesty, integrity, competence and capability when considering whether a trustee is a “*fit and proper person*.” When considering these criteria, the Prohibition Statement says that the Regulator may take account of any attempt to deceive; any misuse of trust funds; any breaches of trust or pensions law, particularly if these are significant, persistent, deliberate or contrary to legal advice received; whether a trustee’s professional charges constitute a breach of trust or demonstrate a lack of internal controls; criminal convictions, not limited to those involving dishonesty or deception, so including (for example) money laundering, violence or substance abuse. The Prohibition Statement makes clear that this is not a comprehensive list of factors.

50. Section 7 of PA 95 provides as follows:-

Appointment of trustees

(1) Where a trustee of a trust scheme is removed by an order under section 3, by section 3A or by reason of his disqualification, the Authority may by order appoint another trustee in his place.

(2) Where a trustee appointed under subsection (1) is appointed to replace a trustee appointed under section 23(1), sections 22 to 26 shall apply to the replacement trustee as they apply to a trustee appointed under section 23(1).

(3) The Authority may also by order appoint a trustee of a trust scheme where they are satisfied that it is reasonable to do so in order-

(a) to secure that the trustees as a whole have, or exercise, the necessary knowledge and skill for the proper administration of the scheme,

(b) to secure that the number of trustees is sufficient for the proper administration of the scheme,

(c) to secure the proper use or application of the assets of the scheme, or

(d) otherwise to protect the interests of the generality of the members of the scheme...

51. Section 8 of PA 95 sets out:

(1) An order under section 7 appointing a trustee may provide for any fees and expenses of trustees appointed under the order to be paid—

(a) by the employer,

(b) out of the resources of the scheme, or

(c) partly by the employer and partly out of those resources.

(2) Such an order may also provide that an amount equal to the amount (if any) paid out of the resources of the scheme by virtue of subsection (1)(b) or (c) is to be treated for all purposes as a debt due from the employer to the trustees of the scheme.

(3) Subject to subsection (4), a trustee appointed under that section shall, unless he is the independent trustee and section 22 applies in relation to the scheme, have the same powers and duties as the other trustees.

(4) Such an order may make provision—

(a) for restricting the powers or duties of a trustee so appointed,

(b) for powers or duties to be exercisable by a trustee so appointed to the exclusion of other trustees.

52. Section 9 of PA 95 states:

9. Removal and appointment of trustees: property.

Where the Authority have power under this Part to appoint or remove a trustee or a trustee is removed under section 3A, they may exercise by order the same jurisdiction and powers as are exercisable by the High Court or, in relation to a trust scheme subject to the law of Scotland, the Court of Session for vesting any property in, or transferring any property to, trustees in consequence of the appointment or of the removal.

53. Section 36 of PA 95 sets out the statutory duties of trustees with regard to choosing investments. This provides that trustees must exercise their discretion in accordance with the following regulations:-

“Occupational Pension Schemes (Investment) Regulations 2005

...

12 Restrictions on employer-related investments

(1) This regulation applies to schemes except small schemes.

(2) Subject to regulations 13 and 16, not more than five per cent of the current market value of the resources of a scheme may at any time be invested in employer-related investments.

(2A) Subject to regulations 14, 15, 15A and 16, none of the resources of a scheme may at any time be invested in any employer-related loan.

54. Section 40 PA 95 provides:

(1) The trustees or managers of an occupational pension scheme must secure that the scheme complies with any prescribed restrictions with respect to the proportion of its resources that may at any time be invested in, or in any description of, employer-related investments.

(2) In this section-

"employer-related investments" means

(a) shares or other securities issued by the employer or by any person who is connected with, or an associate of, the employer,

(b) land which is occupied or used by, or subject to a lease in favour of, the employer or any such person,

(c) property (other than land) which is used for the purposes of any business carried on by the employer or any such person,

(d) loans to the employer or any such person, and

(e) other prescribed investments,

[...]

(5) If any resources of an occupational pension scheme are invested in contravention of subsection (1), any trustee or manager who agreed in the determination to make the investment is guilty of an offence and liable-

(a) on summary conviction, to a fine not exceeding the statutory maximum, and

(b) on conviction on indictment, to a fine or imprisonment, or both.

55. Section 72 of PA 04 provides as follows:

(1) The Regulator may, by notice in writing, require any person to whom subsection (2) applies to produce any document, or provide any other information, which is-

(a) of a description specified in the notice, and

(b) relevant to the exercise of the Regulator's functions.

...

(3) Where the production of a document, or the provision of information, is required by a notice given under subsection (1), the document must be produced, or information must be provided, in such a manner, at such a place and within such a period as may be specified in the notice.

56. Section 77 of PA 04 states:

(1) A person who, without reasonable excuse, neglects or refuses to provide information or produce a document when required to do so under section 72 is guilty of an offence.

...

(3) A person guilty of an offence under subsection (1) or (2) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

The Regulator's Grounds

57. The Case Team relies on two main grounds for seeking prohibition, as follows:

- (i) Conflict. The Case Team relies on Mr Wrigley's alleged failure to manage his conflicts as CEO and the indirect majority shareholder, through taking the lead in proposing and seeking advice regarding a transaction that was an employer related loan and investment. The Case Team also contends that Mr Wrigley applied pressure to the Scheme solicitors and Mr Moore to agree to the proposal; and that he dealt in an unprofessional manner with Mr Moore and the Scheme's advisers, which is a sign of Mr Wrigley attempting to intimidate others into approving his plans. The Case Team relies on his refusal to appoint an independent trustee or a third trustee, which it says was necessary to manage his conflicts.
- (ii) Compliance with a statutory notice. The Case Team contends that Mr Wrigley refused to comply with a notice under s.72 of PA 04, thereby showing a lack of understanding and an intentional unwillingness to comply with such requests.

58. The Case Team contends that Mr Wrigley demonstrated a lack of integrity and/or competence and capability such that Mr Wrigley should be prohibited from acting as a trustee. It is argued that the failures were so serious that the prohibition should extend to trust schemes in general.

59. The Case Team seeks the appointment of an independent trustee on the basis of the grounds set out at s.7(3) of PA 95. Given the appointment of Mr Urquhart and the uncertainty over Mr Moore's position, the Case Team's position was updated in an amended position statement provided prior to the hearing. The Case Team stated that there was a need for an independent trustee, given that Mr Moore wished to resign as trustee and that Mr Urquhart was General Manager of the Employer and so would, or might, experience conflicts of interest. The Case Team contended that Mr Wrigley might seek to exert influence over Mr Urquhart, and the Case Team stated that it had not seen any evidence as to Mr Urquhart's experience. The Case Team also stated that, even if Mr Wrigley is not prohibited, he lacks knowledge and understanding, such that an independent trustee should be appointed.

Representations

63. Representations in response to the Warning Notice were received from Mr Wrigley. No substantive representations were received from Mr Moore or Mr Urquhart, nor were separate representations received from the Employer.
64. Mr Wrigley said that he should not be prohibited as a trustee of the Scheme or of any other scheme. He relied on the fact that he has been a trustee for over 8 years, and the Case Team acknowledged that no prior complaint had been made about his trusteeship in that period. Mr Wrigley also stated that he had "*the highest pass rate possible*" in the Regulator's Trustee Toolkit.
65. Mr Wrigley's position is that it was necessary to perform a "*balancing act*" between keeping the Employer afloat and maximising benefits to Scheme members. He said that he knew that he was conflicted and could not take part in any decision-making concerning the proposed investment, and that he would need to appoint an additional trustee in order for the proposal to be passed. Mr Wrigley stated that he always declared conflicts and said that this was made clear in meeting minutes. The Panel was not provided with copies of any meeting minutes.
66. He also stated that the proposal did not proceed because it would not have been possible to reach agreement without Mr Moore being on board with the idea, which he made clear he was not, and because Hewitsons' advice was that part of the transaction was not permissible, which made the remainder of the transaction unviable.
67. Mr Wrigley stated that he was correct to consider the interests of the Employer because this was what was best for members, and that he was not putting his own interests first. He also said that it was wrong to suggest that he had not attempted to obtain the necessary advice about the proposal, and relied on the emails from Hewitsons and JLT. He stated that a proposal has to go through various steps, and the first step in this case was to check the legal position, with the other steps following. As the proposal was dropped, there was no need to undertake those subsequent steps.
68. Mr Wrigley pointed out in his representations, and in his oral submissions to the Panel, what he said were "*lies*" from the Regulator. Mr Wrigley relied on what he said were a number of inaccuracies in the Warning Notice, for example as to the size of the Scheme's assets, and the statement in the Warning Notice that Mr Moore was no longer a trustee (although this was dealt with by the Case Team in its Response). He also stated that the Case Team was in breach of the Case Team Procedure in a number of respects. Mr Wrigley attacked the conduct of the Case Team. He stated that its behaviour amounted to bullying. Amongst other matters, he criticised the amount of time given to him to respond to

emails. He admitted that he had lost his temper with Ms Suter, but said that he had been bullied and that this was why he became annoyed.

69. Mr Wrigley was unsure as to whether a policy on conflicts existed and said that in order to produce a statement as to how he proposed individually to manage his conflict, he would have had to make sure he was fully conversant with it, assuming it did exist. In the event both parts of the s.72 notice remain unanswered: there has been no disclosure of a conflicts policy and register and no statement of how he planned to address the resignation of Mr Moore. Mr Wrigley said that, as he had answered the Case Team's question concerning whether or not the investment was to proceed, he considered the s.72 request irrelevant and a waste of time, and so chose not to respond. He later said that, although he realised he was under a statutory duty to respond, "*as far as I was aware that was superseded by this Panel*".
70. As to his email to Hewitsons of 7 January 2017, Mr Wrigley stated that he responded in the manner that he did because he considered the advice to be an exercise in fee generation. He stated that his response made clear that he was not intending to go ahead with the proposal unless Hewitsons indicated that it was legally acceptable.
71. Mr Wrigley also stated that an independent trustee was unnecessary and would cause additional cost to the Scheme, which could ultimately be detrimental to the balancing exercise he said was necessary to ensure that the Employer could support the Scheme. He also relied on the fact that Mr Moore remained a trustee and that Mr Urquhart had recently been appointed.
72. Mr Wrigley also raised assorted other matters, including the salary on which Mr Moore retired, which the Panel does not consider relevant to the exercise of powers in the present case.

Reasons for Decision

73. In making its decision the Panel had regard to the objectives of the Regulator as set out in Section 5 PA 04 and to the matters listed in Section 100 PA 04.
74. The Panel also had regard to all the representations submitted in relation to these proceedings.
75. The Panel had regard to the Prohibition Statement and specifically the criteria the Regulator takes into account when considering whether a trustee is a "fit and proper person". The Panel took note of the non-exhaustive list of factors listed in the statement, although it noted that the decision as to whether a person is a fit and proper person to act as a trustee is one to be taken in the round and is not a tick-box exercise.

76. The Panel considered the meaning of “integrity”, by reference to the principles summarised in a decision of the Upper Tribunal in *Batra v The Financial Conduct Authority* [2014] UKUT 0214 (TCC) and followed, and conveniently set out in *Arch -v- FCA* [2015] UKUT 0013 (TCC), at paragraphs 199-201. The Panel referred to the statement that, “integrity” connotes moral soundness, rectitude and steady adherence to an ethical code, but also, and in particular, to the statement that “*integrity remains a concept elusive to define in a vacuum but still readily recognisable by those with specialist knowledge and/or experience in a particular market.*”
77. The Panel noted in addition that a trustee may in some cases not be fit and proper even where he shows only a lack of competence and capability (and where there is no finding of dishonesty, or lack of integrity). The question is, as stated, not a tick-box exercise, and a trustee’s conduct should be looked at in the round to determine whether he is a fit and proper person.
78. The Panel also had regard to the decision of the High Court in *R (on the Application of Fleet Maritime Services (Bermuda) Ltd) v The Pensions Regulator* [2016] Pens. L.R. 29 at paragraph 19. There are circumstances in which a trustee may legitimately disagree with the view of the Case Team. However, the Panel considered that it is important that trustees recognise the important and legitimate role of the Regulator in the regulation of occupational pension schemes, as set out by statute, and that, while it is legitimate to consider and challenge appropriately the view of the executive arm, requests from the Regulator should be treated seriously and with a sufficient degree of importance and respect. There are also certain statutory requirements, for example under s.72 PA 04, to respond to particular requests from, or actions of, the executive arm.
79. The Panel also considered the position of an employer in a trustee’s decision-making. It accepted that the interests of an employer may be relevant, or even highly relevant, to a trustee’s decision-making, as illustrated by *British Airways Plc v Airways Pension Scheme Trustee Ltd* [2017] Pens. L.R. 16. A trustee does not act inappropriately merely because he considers and takes into account the employer’s interests. However, that does not negate the need for a trustee to take proper steps to manage any conflict.
80. The Panel considered that Mr Wrigley was not a fit and proper person for the following reasons:

Making a proposal notwithstanding the unmanageable conflict

- (1) Mr Wrigley proposed the investment in the Employer, in his capacity as Chairman of the Trustees, and then continued to push forward the proposal, even though he was subject to an obvious and serious conflict of interest as the CEO and indirect majority shareholder of the Employer. The conflict was so serious that Mr Wrigley could only properly have managed that conflict by playing no part in the process.

The Panel rejected Mr Wrigley's principal argument that he could or would have managed the process by not formally taking part in any decision to approve the Employer-Related Investment at the time when it fell for decision. This was an unmanageable conflict from the start. Further, the Panel found no corroborating evidence to support Mr Wrigley's stated intention to recuse himself from the decision-making.

- (2) That failing was exacerbated by the fact that Mr Wrigley did not take legal advice prior to making the proposal. The Panel accepted that Mr Wrigley sought legal advice subsequently, and that he was not advised immediately to recuse himself from the process, but the conflicts of interest were sufficiently strong and obvious and Mr Wrigley was sufficiently experienced a trustee that the Panel considered he must or ought reasonably to have realised that he should play no further part in the process.
- (3) Mr Wrigley instead repeatedly applied pressure to others, in particular Mr Moore, to agree to the proposal. It was not appropriate for Mr Wrigley to criticise Mr Moore for raising concerns in an email copied to the Scheme's advisers, and the Panel found the tone of Mr Wrigley's emails amounted to inappropriate pressure on Mr Moore.
- (4) The Panel concluded that Mr Wrigley's proposals went beyond the mere raising of an idea. The evidence indicated that Mr Wrigley intended to take the proposal forward and that the Trustees would have been asked to make a substantial investment in the Employer if Mr Moore had agreed and the legal advice had been supportive. Whether or not Mr Wrigley intended to recuse himself from the decision-making, the Panel concluded that Mr Wrigley personally intended to take a significant role in the process.
- (5) That the proposal could not legitimately have been agreed (since Mr Wrigley could not properly have taken part in the decision-making process and there were insufficient other trustees to pass a quorate decision) does not excuse Mr Wrigley's behaviour. The Panel noted that Mr Wrigley refused to appoint an independent trustee and it did not accept Mr Wrigley's assertion that he intended to do so later. The proposal was, by Mr Wrigley's own admission, urgent, and appointing an independent trustee, or another trustee, would have taken time.
- (6) The Panel also considered that Mr Wrigley failed properly to consider fully the suggestions made to him that an independent trustee be appointed.
- (7) The Panel accepted that Mr Wrigley would only have gone ahead with the transaction, or parts of it, if the legal advice was that doing so was not in contravention of s. 40 PA 95. However, that did not mean that Mr Wrigley's actions were appropriate, given the conflicts of interest.

No knowledge of conflicts policy or register

- (8) Further, Mr Wrigley also failed to ensure that a conflicts of interest register was maintained, which was particularly important given the obvious potential for conflicts of interest in his case. Mr Wrigley also had no knowledge of the Scheme's conflict of interest policy – which is in clear breach of his responsibilities as a trustee, let alone as Chair of Trustees.

Conduct towards the Regulator

- (9) Mr Wrigley's attitude and actions towards the Regulator, as identified in the manner of his responses to requests for information, were inappropriate, disrespectful and intimidating, and fell substantially below the standards to be expected of a trustee having important statutory duties to discharge. He failed to recognise and appreciate the fact that the Regulator is entitled to take steps in relation to a particular scheme in order to safeguard the interests of scheme members, consistent with its statutory duties. While Mr Wrigley was entitled to raise legitimate queries with the Regulator, Mr Wrigley's actions and language showed a fundamental lack of regard for the importance of the proper regulation of pension schemes in general.
- (10) Mr Wrigley offered no proper excuse for not replying to the s.72 Notice. The failure to respond to a s.72 Notice can amount to a criminal offence and Mr Wrigley acted inappropriately in failing to respond to the s.72 Notice, and deliberately so. This showed a fundamental lack of appreciation of his responsibilities as a trustee. The s.72 request was an important and necessary one. The Case Team was entitled to ask for answers to the requests made.
- (11) The Panel did not accept that the Case Team had "*bullied*" Mr Wrigley, or that Ms Suter's emails were "*abusive*" as contended. Ms Suter's emails were professional and appropriate. Where tight timescales were imposed, this was done with the legitimate aim of ensuring that actions were not taken contrary to the law, and therefore also aimed to protect Mr Wrigley himself from being in breach of law. Given the material supplied to the Case Team, it was correct and proper that the Case Team acted as it did. In particular, Mr Wrigley was angered by the Case Team forwarding its email to him to Hewitsons shortly afterwards, and at the oral hearing cited this as an example of bullying, but the Panel's view is that this was not unreasonable.
- (12) The Panel did not accept that the Case Team had told "*lies*" or that it had failed to follow the Case Team Procedure in material respects. There were some errors in the Warning Notice, but this is a document produced as part of the investigative process. Mr Wrigley has had the opportunity to correct these errors. There was no basis whatsoever for suggesting that the Case Team had deliberately sought to mislead the Panel.

Ongoing conduct

- (13) The Panel concluded that Mr Wrigley's actions indicate an ongoing pattern of behaviour. Even 9 months after the s.72 request, Mr Wrigley was unable to provide any details of the conflicts of interest policy, and he continued to maintain his inappropriate stance towards the Regulator, long after he could have reflected on his position.
81. Taking the above into account, in the Panel's view there was, over a relatively short period, an evolution of Mr Wrigley's conduct, from the initiation of a proposal which, as a trustee, he should never have made or pursued, to an obdurate and aggressive attitude of non-cooperation with the Regulator, all of which demonstrated that he was not a fit and proper person to be a trustee. The sequence is as follows: Mr Wrigley proposed an idea that it was not appropriate for him to propose given his conflicts of interests; he then pushed forward the proposal when it was not appropriate for him to do so; he applied inappropriate pressure to others when they failed to agree to the idea, which was all the more inappropriate given his conflicts of interests; he failed to consider properly the comments of others such as Mr Moore and the Scheme's advisers; he then failed to deal appropriately with the body which by statute is charged with protecting occupational pension schemes; and then adopted a position in which he deliberately sought to obstruct that body's legitimate inquiries into the Scheme; and without taking any steps to remedy his clear failings in respect of the Scheme. As time went on, Mr Wrigley's position only became more entrenched.
82. The matters above demonstrated, in the Panel's view, a serious lack of competence and capability. In addition, the Panel's view is that, when taken in the round, such conduct showed a lack of integrity. In the Panel's view, Mr Wrigley was aware of the unacceptable risk that he would act whilst in a grossly conflicted position and nevertheless chose to take that risk. No reasonable person would have regarded the risk as acceptable. Given Mr Wrigley's position in respect of the Employer, he should have been very alive to the significant conflicts in the proposal and he should not have taken any part in the process, and he certainly should not have taken the leading, and at times overbearing and aggressive, role that he did.
83. Given the significance of his failings, the fact that the failings were ongoing, and that the Panel concluded that he lacked integrity in respect of the matters described above, the Panel considered that it would be inappropriate for Mr Wrigley to act as a trustee of any scheme, given the significance of the failings and the potential for the conduct to be repeated. The Panel therefore concluded that it was appropriate to prohibit Mr Wrigley from acting as a trustee of trust schemes in general.
84. The Panel considered that it was necessary to appoint an independent trustee to the Scheme:-

- (1) Mr Wrigley will, as a result of his prohibition, be removed as a trustee of the Scheme.
 - (2) Mr Moore wishes to resign as a trustee. Moreover, as General Manager of the Employer, Mr Urquhart may well be subject to conflicts of interest, such that there will be insufficient trustees to take decisions on matters relating to the Employer. Moreover, Mr Wrigley can through the Employer appoint additional trustees to the Scheme. There is accordingly a legitimate concern that further conflicted appointments will be made, or appointments will be made of those over whom Mr Wrigley might seek to exert influence. There have been significant difficulties in the administration of the Scheme for some time. It is appropriate in all the circumstances for an independent trustee to be appointed to ensure that those in charge of the Scheme have sufficient knowledge and skill; and to ensure that members' interests are protected by a properly non-conflicted, independent trustee being able to make decisions, as well as being necessary to secure the proper use or application of the assets of the Scheme.
 - (3) The Panel therefore decided to make an order under s.7(3)(a)(c) and (d) PA 95. The Panel did not find it necessary to make an order under s.7(3)(b) PA 95.
 - (4) The Panel also considered that the independent trustee should have exclusive powers. This will streamline the administration of the Scheme and safeguard against the risk that Mr Wrigley, through the Employer, may appoint additional trustees to outnumber and outvote the independent trustee. The Panel did not find any evidence that Mr Urquhart is unfit to be a trustee and the Panel does not make any finding in respect of Mr Urquhart's abilities.
 - (5) The Panel accepted the recommendation that Pi would be an appropriate independent trustee. The Panel considers that the administration of the Scheme should be relatively straightforward and so expects that Pi's fees will not prove to be an unduly significant cost.
85. There was no dispute that Pi's fees should be paid from the Scheme's resources. As to whether the fees of the independent trustee should be treated as a debt due from the employer, the Case Team stated that this was the "usual order" and so should be made. Mr Wrigley on his part did not seem to object strongly to such an order.
86. The Panel concluded that the appointment of an independent trustee (rather than additional lay trustees) has become unavoidable because of Mr Wrigley's failure to deal with conflicts, and the ongoing risk that the Employer could seek to appoint a majority of trustees so as to seek to have effective control of the Scheme. Given this, the Panel decided that it was appropriate for the fees and expenses of the independent trustee to be treated as a debt due from the Employer.

Conclusion

87. The Panel concluded that the evidence of the numerous and serious failures by Mr Wrigley demonstrated that he is not a fit and proper person to act as a trustee. Mr Wrigley did not have the necessary competence or capability and he had also demonstrated a lack of integrity. The Panel also considered that it was necessary for an independent trustee to be appointed, with the exclusive powers.
88. The Panel determined that orders be made in the following terms :-

"Prohibition Order under section 3 of the Pensions Act 1995

The Pensions Regulator hereby orders as follows:-

Thomas Christopher Wrigley is hereby prohibited from acting as trustee of trust schemes in general.

This order has the effect of removing him from all or any schemes of which he is a trustee.

By section 6 of the Pensions Act 1995, any person who purports to act as a trustee of a trust scheme whilst prohibited under section 3 is guilty of an offence and liable

- (a) on summary conviction to a fine not exceeding the statutory maximum, and*
(b) on conviction on indictment to a fine or imprisonment or both.

Appointment Order under section 7, 8 and 9 of the Pensions Act 1995

- 1. Pi Consulting (Trustee Services) Ltd of 2 Allington Close, Wimbledon Village, London, SW19 5AP is hereby appointed as trustee of the Danapak Flexibles Retirement Benefits Scheme ("the Scheme") with immediate effect ("the New Trustee").*
- 2. This order is made because the Pensions Regulator is satisfied that it is reasonable to do so pursuant to the relevant provisions of the Pensions Act 1995, as set out below, in order:*
 - (i) to secure that the trustees as a whole have, or exercise, the necessary knowledge and skill for the proper administration of the Scheme;*
 - (ii) to secure the proper use or application of the assets of the Scheme; and*
 - (iii) otherwise to protect the interests of the generality of the members of the Scheme.*

3. *The powers and duties exercisable by the New Trustee shall until further order be to the exclusion of all other trustees of the Scheme pursuant to section 8(4)(b) of the Pensions Act 1995.*
 4. *The New Trustee's fees and expenses in respect of the Scheme shall be paid out of the resources of the Scheme pursuant to section 8(1)(b) of the Pensions Act 1995.*
 5. *An amount equal to the amount paid out of the resources of the Scheme in accordance with (4) above is to be treated for all purposes as a debt due from the Scheme employer, Discovery Flexibles Limited, to the New Trustee pursuant to section 8(2) of the Pensions Act 1995.*
 6. *The appointment of the New Trustee may be terminated, or the New Trustee replaced, at the expiration of 28 days' notice from the executive arm of the Pensions Regulator to the New Trustee, pursuant to section 7(5)(c) of the Pensions Act 1995.*
 7. *The property and assets of the Scheme shall be vested in and transferred to the New Trustee pursuant to section 9 of the Pensions Act 1995."*
89. Appendix 1 to this Determination Notice contains important information about the Directly Affected Parties' rights to refer this decision to the Upper Tribunal.

Name: Tony Foster

Dated: 7 December 2017

Referral to the Tax and Chancery Chamber of the Upper Tribunal

You have the right to refer the matter to which this Determination Notice relates to the Tax and Chancery Chamber of the Upper Tribunal (“the Tribunal”). You have 28 days from the date this Determination Notice is sent to you 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:

Upper Tribunal
(Tax and Chancery Chamber)
Fifth Floor
Rolls Building
Fetter Lane
London
EC4A 1NL

Tel: 020 7612 9700

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 Panel Support
The Pensions Regulator
Napier House
Trafalgar Place
Brighton
BN1 4DW

Tel: 01273 811852

A copy of the form for making a reference, FTC3 ‘Reference Notice (Financial Services)’, can be found at:

http://hmctsformfinder.justice.gov.uk/HMCTS/GetForm.do?court_forms_id=3043