

**Richard Favier - Address to R3 conference Berlin.
May 2007**

Firstly I would like to thank you for giving me the opportunity to address this conference.

However, I am afraid that will have to do for the “politeness bit” as I have been given a maximum of 5 minutes to talk to you. But it is not all bad news as you won’t have me droning on for hours about pensions.

I was asked to talk to you about

- What we liked
- And
- What we didn’t like

We really like it when you comply with your statutory (that means you have to do it) obligation to send us a section 120 notice – so called because the obligation lies in section 120 of the Pensions Act 2004.

However, I suspect you will already know that – although your neighbour may not...

You will also know - from reading the Dear IP / the R3 Technical guidance and the PPF guidance – that, generally, you are supposed to send us that notice within 14 days of the formal insolvency of an employer with an occupational pension scheme.

Now you would have thought that was not difficult wouldn’t you? Well experience suggests otherwise – most if not all firms have slipped up - and I know where your RPBs are.....

- You are also obliged to send us a section 122 notice to let us know if a
- Scheme has been rescued - in the sense that some one is carrying it on for the benefit of the employees
 - Scheme has **not** been rescued e.g. because you have sacked all of the employees and had a fire sale of the assets
 - Or you simply don’t know which of the two it is because you had to leave office unexpectedly eg because of a rescission of a winding up order

We also like it when you warn your clients that

(A) They should not waste our time approaching us with restructuring propositions in cases where a solution other than insolvency is possible. The legislation is designed to prevent and not to encourage pension dumping. Although it would seem not everyone has got the hang of that.....

(B) Clients should also know that there is no point in approaching us with a rescue proposition which does not treat the scheme fairly, as compared to

other creditors or even shareholders.... Firstly, the deal will probably need clearance from the Regulator (and they won't do it unless the proposition looks fair). And secondly we are usually the largest unsecured creditor and thus we can control the creditors meeting.

(C) Clients should also be aware that they will need to give us one third of the equity - if the parties are to remain post the deal - and one tenth if new parties are to come in. We take that as an anti embarrassment provision. We won't sacrifice a dividend for equity going forward.

Moving on to what we don't like

We don't like it when you do not send us notice of creditors meetings where the insolvent has a deficit on its defined benefit scheme. If you omit to do that, you will get a very polite letter from me pointing out that

- you have disenfranchised the pension scheme and
- (depending on the size of our claim) suggesting you may have conducted a meeting with a material irregularity because the major and controlling creditor had not been given notice.

We don't like it when your clients think that we are there to take the pension debt off their hands and for them to get all of the resultant economic upside. That is simply not going to work.....

The shortfall on the schemes is funded by our levy payers. If they see us taking the debt - which they have to cover via the levy - whilst the stakeholders go off with the company without any pension debt in it - they will want to know what the PPF and the Regulator are up to. - especially if the bust company is in the same market as them and so has a competitive advantage because it no longer has a defined benefit scheme to pay for.

Net result we have to be in a position to show that

- The levy payers were going to have to cover the debt anyway - as insolvency was inevitable
- And we managed to secure a return for the scheme which was demonstrably better than we would have got if the company had gone bust in the normal way.

We also do not like you being opportunistic in the level of fees you seek to take. We will use our voting power if we think we should –. I will say no more than – we know how much you charge the banks for doing your work.

So it is very simple

Please comply with your statutory obligations

- Please Charge reasonable fees
- Please encourage your clients to be sensible when they put rescue propositions to us. There is always a deal to be done but if we are not

treated fairly we will walk away as we have to take care of our levy payers.

- Please call us if you want to discuss anything – it makes life easier for everyone and I am told both Kevin Dolan and I are very approachable.

Thank you very much for listening. I hope you found it informative. If that was all a little too cryptic – I sincerely apologise – 5 minutes is not very long. Please come and talk to me later, in one of the breaks, if you want to know more.