

PPF rapped over the knuckles

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The ombudsman is standing up to the PPF's hardline policies

The PPF has come under fire recently for the strict approach it has taken to calculating scheme levies. The latest flashpoint came when the West of England Ship Owners Insurance Services pension scheme, whose sponsor is registered in Luxembourg, took the PPF to the ombudsman.

Its trustees claimed its Dun & Bradstreet failure score, which represents the likelihood that a company will go under without paying all its creditors within the next 12 months, was much worse than it should have been because they were not aware they had to submit their company accounts to D & B Luxembourg.

The Pension Protection Fund Ombudsman held that trustees should not be expected to know about this procedure, and deputy ombudsman Jane Irvine said: "I cannot see how a public body, properly directing itself, can decide that a statutory levy can be imposed based partly on a procedure that the levy payer was unaware of".

HR Trustees director Giles Payne thinks this is realistic, saying "if the company is fully aware that the D&B rating is assessed in Luxembourg and therefore you need to submit your accounts in Luxembourg then that's one thing, but I just don't think they were clearly aware of that, and I think the PPF came down fairly heavily on them". Jennie Kreser, a partner at law firm Silverman Sherliker says "appeals to the ombudsman rarely succeed but in this case it did".

The PPF responded that it lacked the capacity to compel D&B Luxembourg to reassess the score, and that the PPF's Board was prevented from reviewing the company's method of calculation under s 207 of Pensions Act 2004. Be that as it may, it would not seem unreasonable for the PPF to inform the scheme when it discovered the anomaly, to give them the opportunity to act in time.

Payne says "the communication should be better," and the PPF should make an effort beforehand to inform trustees that they will assess overseas parents in the country where they are registered as well as in the UK. "Hopefully this will highlight to other trustees and companies in similar situations that they need to think more broadly than purely the UK when assessing their creditworthiness".

A spokesperson for the PPF says : "We have no plans to change the levy rules so the way we calculate the risk-based levy for all eligible schemes remains the same...We are disappointed with the ombudsman's determination as it will cause us particular operational difficulties".

The PPF protest that they would be compromising their ability to handle their workload if an obligation to inform schemes were imposed, which is why they are appealing the ombudsman's decision in the High Court. Kreser says she suspects the PPF "wishes to discourage further challenges now the ombudsman has for once not supinely rolled over".