

## **GROWTH PLAN SERIES 1, 2 and 3 PENSION OBLIGATIONS GUIDANCE NOTE – GUIDANCE NOTES 2010**

### **Introduction**

1. This guidance note has been prepared by The Pensions Trust for employers that participate in the Growth Plan (the Plan).
2. The guidance note is intended to assist participating employers in preparing their year end accounts. It covers the accounting treatment of ongoing pension costs and the potential employer debt on withdrawal from the Plan. This note should therefore be read in conjunction with FRS17 – Retirement benefits, FRS12 – Provisions, contingent liabilities and contingent assets and FRS21 – Events after the balance sheet date.
3. Many employers participate in the Plan as an Additional Voluntary Contribution (AVC) vehicle for their members. An employer is deemed to be participating in the Plan if one or more of its employees has paid AVCs into the Plan. This applies irrespective of whether the employer has selected the Plan as a main pension arrangement.
4. An employer that participates in the Plan and another pension scheme will need to consider the accounting implications of their participation in each scheme separately. For example, under the updated regulations an employer that participates in an industry-wide Final Salary scheme and uses the Plan as an AVC vehicle could be deemed to have withdrawn from the Plan while continuing to participate in the Final Salary scheme. This situation would arise, for example, if the employer had active member(s) in the Final Salary scheme but no longer had any members contributing to the Plan because, say, the last Plan AVC member had left employment or the last Plan AVC member simply ceased making AVCs to the Plan.
5. The information contained in this guidance note is supplied in good faith. The Pensions Trust does not accept liability to employers or third parties in conjunction with the contents of this guidance note.

### **Materiality**

6. The question of whether or not pension costs and potential liabilities are material in the context of an employer's financial statements is ultimately a decision for each individual employer and its auditors. This guidance note does not therefore comment on materiality.

### **The Plan**

7. The Plan is a multi-employer pension scheme.
8. Contributions paid into the Plan up to and including September 2001 were converted to defined amounts of pension payable from Normal Retirement Date. From October 2001 contributions were invested in personal funds which have a

capital guarantee and which are converted to pension on retirement, either within the Plan or by the purchase of an annuity.

9. The rules of the Plan allow for the declaration of bonuses and/or investment credits if this is within the financial capacity of the Plan assessed on a prudent basis. Bonuses/investment credits are not guaranteed and are declared at the discretion of the Plan's Trustee.
10. The Plan is a 'last man standing' non-associated scheme for Pension Protection Fund (PPF) purposes.
11. Due to the nature of the Plan as a non-segregated multi-employer scheme it is not possible, in the normal course of events, to identify on a reasonable and consistent basis the share of underlying assets and liabilities belonging to each individual participating employer.

#### *Actuarial valuations*

12. Actuarial valuations of the Plan are carried out every three years in-line with statutory requirements.
13. The purpose of the actuarial valuation is to determine the funding position of the Plan by comparing the assets with the past service liabilities as at the valuation date. Asset values are calculated by reference to market levels. Accrued past service liabilities are valued by discounting expected future benefit payments using a discount rate calculated by reference to the expected future investment returns.
14. The rules of the Plan give the Trustee the power to require employers to pay additional contributions in order to ensure that the statutory funding objective under the Pensions Act 2004 is met. The statutory funding objective is that a pension scheme should have sufficient assets to meet its past service liabilities, known as Technical Provisions.

#### *Buy-out funding position*

15. The buy-out liabilities of the Plan represent the cost of securing member benefits by purchasing annuity policies from an insurer. Insurance companies tend to price annuities based on conservative assumptions for future investment returns and build in a risk allowance or safety margin to allow for the fact that the benefits are guaranteed. This is because they only get one chance to collect money from the pension scheme and must then pay the promised benefits irrespective of future financial conditions.
16. By contrast the past service liabilities, or Technical Provisions, are valued by reference to the actual investment strategy of the Plan and the liability profile of the Plan.
17. Historically, the combination of the above factors for the Plan has tended to mean that the buy-out liabilities of the Plan were significantly higher than the past service liabilities. However, the liability profile of the Plan and recent improvements in the annuity rates offered by insurance companies, have resulted in the buy-out

liabilities of the Plan moving closer to the past service liabilities. By way of illustration the Scheme Actuary has estimated that the Plan was 96% funded on a Technical Provisions basis and 80% funded on a buy-out basis as at 30 September 2008.

### **Accounting rules – pension costs**

18. The accounting treatment of pension costs is covered by FRS17 – Retirement Benefits.
19. The Plan is a multi-employer pension scheme where it is not possible to separately identify the assets and liabilities of participating employers on a consistent and reasonable basis.
20. An employer should therefore account for employer contributions payable to the Plan as a charge in the Revenue Account for the period under review.
21. Employers should also disclose:
  - 21.1 the fact that it is not possible to identify its share of the underlying assets and liabilities; and
  - 21.2 any available information about the existence of the surplus or deficit in the Plan and the implications of the surplus/deficit for the employer.
22. The employer should also disclose any outstanding or prepaid contributions at the balance sheet date.

### **Accounting treatment of pension costs for the Plan**

23. Employers should account for employer contributions payable to the Plan as a charge in the Revenue Account for the period under review and disclose any outstanding or prepaid contributions at the balance sheet date.
24. Employers should also make the disclosures required by paragraph 20 above.
25. The Trust has prepared a draft disclosure note to assist employers in meeting these disclosure requirements. See 'Disclosure note' on page 12.

### **Employer debt regulations**

#### *Legislation*

26. Following a change in legislation in September 2005 there is a potential debt on employers that participate in a multi-employer pension scheme such as the Plan that could be levied by the Trustee.
27. The relevant legislation is now revised in the Occupational Pension Schemes (Employer Debt and Miscellaneous Amendments) Regulations 2008 (SI 2008/731) ('the Regulations') which came into force on 6 April 2008.

### *Events that could result in an employer debt*

28. An employer debt will arise if one of the following events occurs at a time when the Plan is not fully funded on a buy-out basis:
- 28.1 The commencement of winding up of the Plan.
  - 28.2 An employer becomes insolvent.
  - 28.3 An employer ceases to participate in the Plan, i.e. it no longer has any active members in the Plan, at a point in time when there is at least one other employer that continues to employ active members in the Plan.
29. The new legislation includes a concept known as a 'period of grace' which applies in narrowly defined circumstances. Under the new regulations an employer will not be deemed to have withdrawn from the Plan if it employs an active member of the Plan within 12 months of the last member leaving. However, if the employer does not employ a further active member during this 12 month period, the employer will be deemed to have withdrawn from the Plan at the date when the employer actually ceased to employ active members.
30. In order to take advantage of the 'period of grace' provisions, a participating employer **must** give notice to The Pensions Trust **either before or** within one month of the last active member leaving the Plan, that it intends to employ active members again within 12 months. That employer is not liable for an employer debt unless and until it fails to employ such an active member, its plan changes (in which case the employer must notify The Pensions Trust) or it becomes insolvent. Giving notice to The Pensions Trust can be done by completing the standard notice form that is available on The Pensions Trust's website <sup>1</sup>. **If notice is not received within one month of the last active member leaving, an employer will not be able to take advantage of the 'period of grace' provisions and will be immediately liable for an employer debt. Please note that the regulations do not allow any discretion in this timing.**

### *Calculation of the employer debt*

31. The debt for the Plan as a whole is calculated by comparing the liabilities for the Plan (calculated on a buy-out basis, i.e. the cost of securing benefits by purchasing annuity policies from an insurer plus an allowance for expenses) with the assets of the Plan. If the liabilities exceed assets there is a buy-out debt.
32. The leaving employer's share of the buy-out debt is the proportion of the Plan's liability attributable to employment with the leaving employer compared to the total amount of the Plan's liabilities (relating to employment with all the currently participating employers). The leaving employer's debt therefore includes a share of any 'orphan' liabilities in respect of previously participating employers. 'Orphan' liabilities are the deferred and pension liabilities of members previously employed by employers that have ceased to participate in the Plan.

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<sup>1</sup> [www.thepensionstrust.org.uk](http://www.thepensionstrust.org.uk) and follow the links Document Library > General Literature > Pensions Bulletin for Employers > Period of Grace Form.

33. The amount of the debt therefore depends on many factors including total Plan liabilities, Plan investment performance, the liabilities in respect of current and former employees of the employer, the level of 'orphan' liabilities (see paragraph 24 above), financial conditions at the time of the employer's withdrawal from the Plan and the insurance buy-out market. The amounts of debt can therefore be volatile over time.

*Alternatives to the payment of a buy-out debt*

34. The employer debt regulations contain four possible alternatives to the payment of the full buy-out debt should an employer cease to participate in the Plan. These alternatives are:
- 34.1 A Scheme Apportionment Arrangement.
  - 34.2 A Regulated Apportionment Arrangement.
  - 34.3 A Withdrawal Arrangement.
  - 34.4 An Approved Withdrawal Arrangement.
35. These alternatives are only possible in certain narrowly defined circumstances and require the agreement of the Trustee and/or The Pensions Regulator. Further details about these options are included in Appendix A to this guidance note.

*Transition provisions – participating employers that had no active members as at 6 April 2008*

36. Under the old regulations in force prior to 6 April 2008 an employer was deemed to have ceased to participate in a multi-employer pension scheme if the employer did not have an active member in the Plan **and** the employer did not have any employees eligible to join the Plan.
37. The old regulations will continue to apply to a participating employer that did not have any active members as at 6 April 2008 but employed persons eligible to join the Plan, until it either ceases to employ a person eligible to join the Plan, or until it enrolls an active member.
38. If such an employer ceases to employ a person eligible to join the Plan the employer will be deemed to have withdrawn from the Plan on the date on which it ceased to employ an eligible person.
39. Alternatively, if such an employer enrolls an active member the new regulations will apply from that point at which the new active member is enrolled to the Plan.

*Scenarios*

40. Appendix B outlines a number of scenarios under which an employer would be deemed to have withdrawn from a multi-employer scheme such as the Plan. These events would trigger an employer debt unless the Plan was fully funded on

a buy-out basis at the date the employer was deemed to have withdrawn from the Plan.

### **Employer debt figures for the Plan**

41. The Scheme Actuary has calculated the employer debt that would have been payable by each employer if they had withdrawn from the Plan as at 30 September 2009. These figures were sent to all participating employers in May 2010.
42. In future years the Scheme Actuary will calculate updated employer debt figures as at 30 September each year. These figures will be sent to participating employers by the end of the following May.

### **Accounting rules – employer debt on withdrawal from the Plan**

43. Under FRS17 an employer debt on withdrawal from a multi-employer scheme such as the Plan should be accounted for in the period in which the employer becomes **demonstrably committed** to the payment of the debt on withdrawal.
44. In determining the appropriate accounting treatment it is useful to consider four situations:
  - 44.1 Employer had withdrawn from the Plan on or before the balance sheet date.
  - 44.2 Employer had not withdrawn from the Plan as at the balance sheet date but was demonstrably committed to withdrawing from the Plan at the balance sheet date.
  - 44.3 Employer had not withdrawn from the Plan as at the balance sheet date but became demonstrably committed to withdrawing from the Plan after the balance sheet date and before the financial statements were approved for issue.
  - 44.4 Employer had not withdrawn from the Plan as at the balance sheet date and did not become demonstrably committed to withdrawing from the Plan after the balance sheet date and before the financial statements were approved for issue.

#### *Employer had withdrawn from the Plan on or before the balance sheet date*

45. An employer that has withdrawn from the Plan at the balance sheet date and settled the debt on or before the balance sheet date should account for the employer debt as a charge against profits (or against a provision previously made for the debt payable on withdrawal).
46. Under FRS12 an employer that has withdrawn from the Plan at the balance sheet date but has not settled the debt on or before the balance sheet date should:

- 46.1 make a provision in the financial statements for the debt on withdrawal if it is possible to make a reliable estimate of the amount of the debt on withdrawal; or
- 46.2 disclose the existence of the employer debt on withdrawal in the notes to the financial statements if it is not possible to make a reliable estimate of the amount of the debt on withdrawal.

*Employer had not withdrawn from the Plan as at the balance sheet date but was demonstrably committed to withdrawing from the Plan at the balance sheet date*

- 47. An employer that is demonstrably committed at the balance sheet date to the payment of a debt on withdrawal should:
  - 47.1 make a provision in the financial statements for the debt on withdrawal if it is possible to make a reliable estimate of the amount of the debt on withdrawal; or
  - 47.2 disclose the existence of the employer debt on withdrawal in the notes to the financial statements if it is not possible to make a reliable estimate of the amount of the debt on withdrawal.

*Employer had not withdrawn from the Plan as at the balance sheet date but became demonstrably committed to withdrawing from the Plan after the balance sheet date and before the financial statements were approved for issue*

- 48. It is possible that an employer that was not demonstrably committed at the balance sheet date to the payment of a debt on withdrawal may become so before the financial statements are issued. In this situation, under FRS21, the employer should disclose the existence of the employer debt on withdrawal in the notes to the financial statements.

*Employer had not withdrawn from the Plan as at the balance sheet date and did not become demonstrably committed to withdrawing from the Plan after the balance sheet date and before the financial statements were approved for issue*

- 49. Under current accounting regulations an employer that was not demonstrably committed at the balance sheet date to the payment of a debt on withdrawal and does not become so before the financial statements are finalised does not need to disclose the potential debt on withdrawal. However an employer may wish to disclose the potential debt in the notes to their financial statements, particularly if the employer believes that it is likely to withdraw from the Plan in the near future.

*Employer provides for the debt on withdrawal*

- 50. The accounting treatment of provisions is covered by FRS12 – Provisions, contingent liabilities and contingent assets.
- 51. Where a provision is made for the debt on withdrawal the employer should disclose the following:
  - 51.1 the carrying amount at the beginning and end of the period;
  - 51.2 any additional provision made in the period;

- 51.3 any amount reversed unused; and
- 51.4 amounts used (i.e. incurred and charged against the provision).

52. Comparative information need not be disclosed for these items.

53. In addition the employer should also give:

- 53.1 a brief description of the nature of the liability and the expected timing of the payment to settle the liability should it crystallise; and
- 53.2 an indication of the uncertainties about the amount or timing of the payment.

#### *Disclosure*

54. The relevant accounting rules are covered by:

- 54.1 FRS12 – Provisions, contingent liabilities and contingent assets, where the employer was demonstrably committed to the payment of a debt on withdrawal at the balance sheet date; and
- 54.2 FRS21 – Events after the balance sheet date, where the employer became demonstrably committed to the payment of a debt on withdrawal after the balance sheet date.

55. An employer should disclose the following:

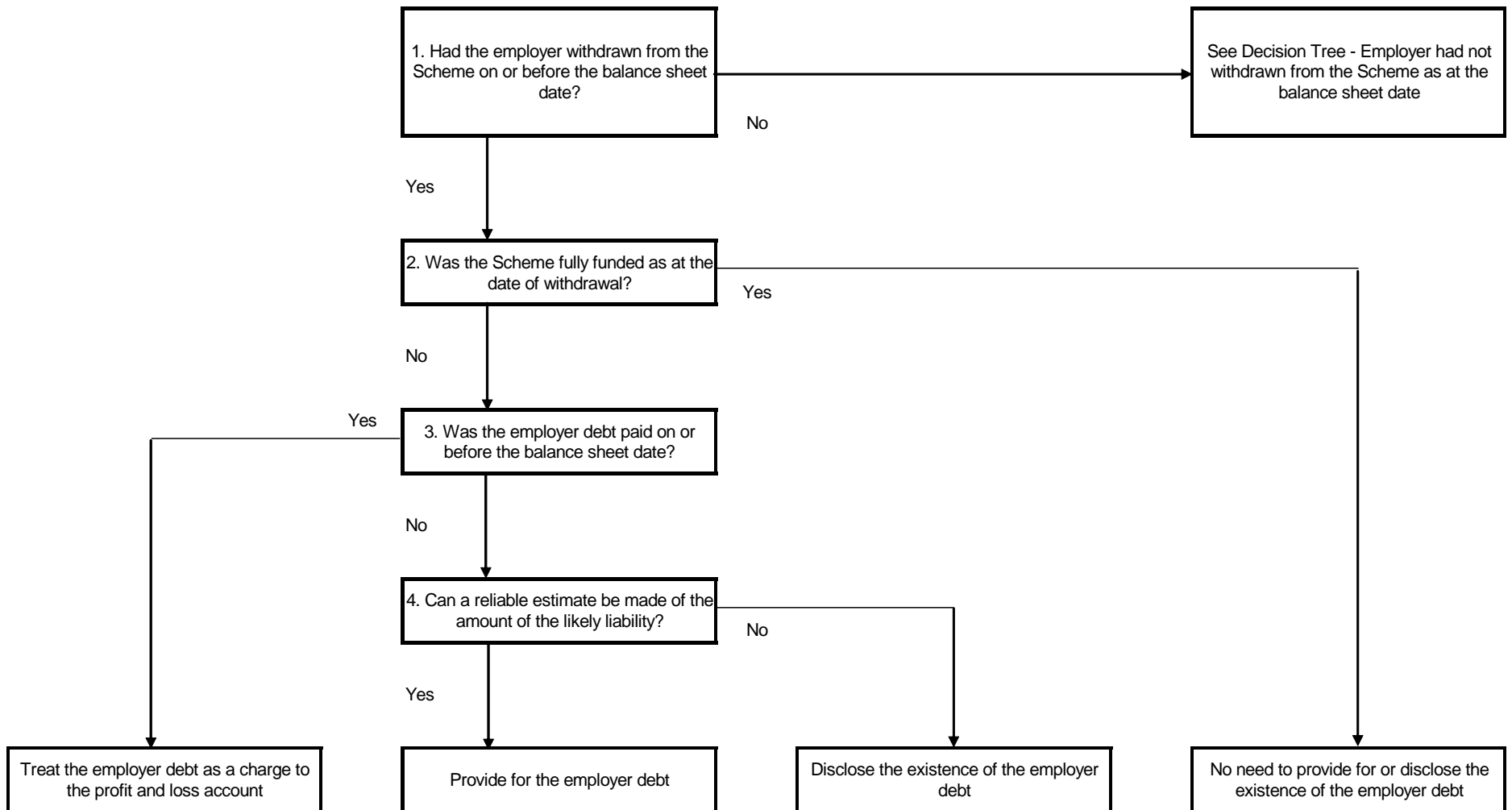
- 55.1 a brief description of the event that resulted in the debt on withdrawal; and
- 55.2 an estimate of its financial effect and an indication of the uncertainties relating to the amount or timing of any payments that would be required to settle the debt.

#### **Accounting treatment for the employer debt on withdrawal from the Plan**

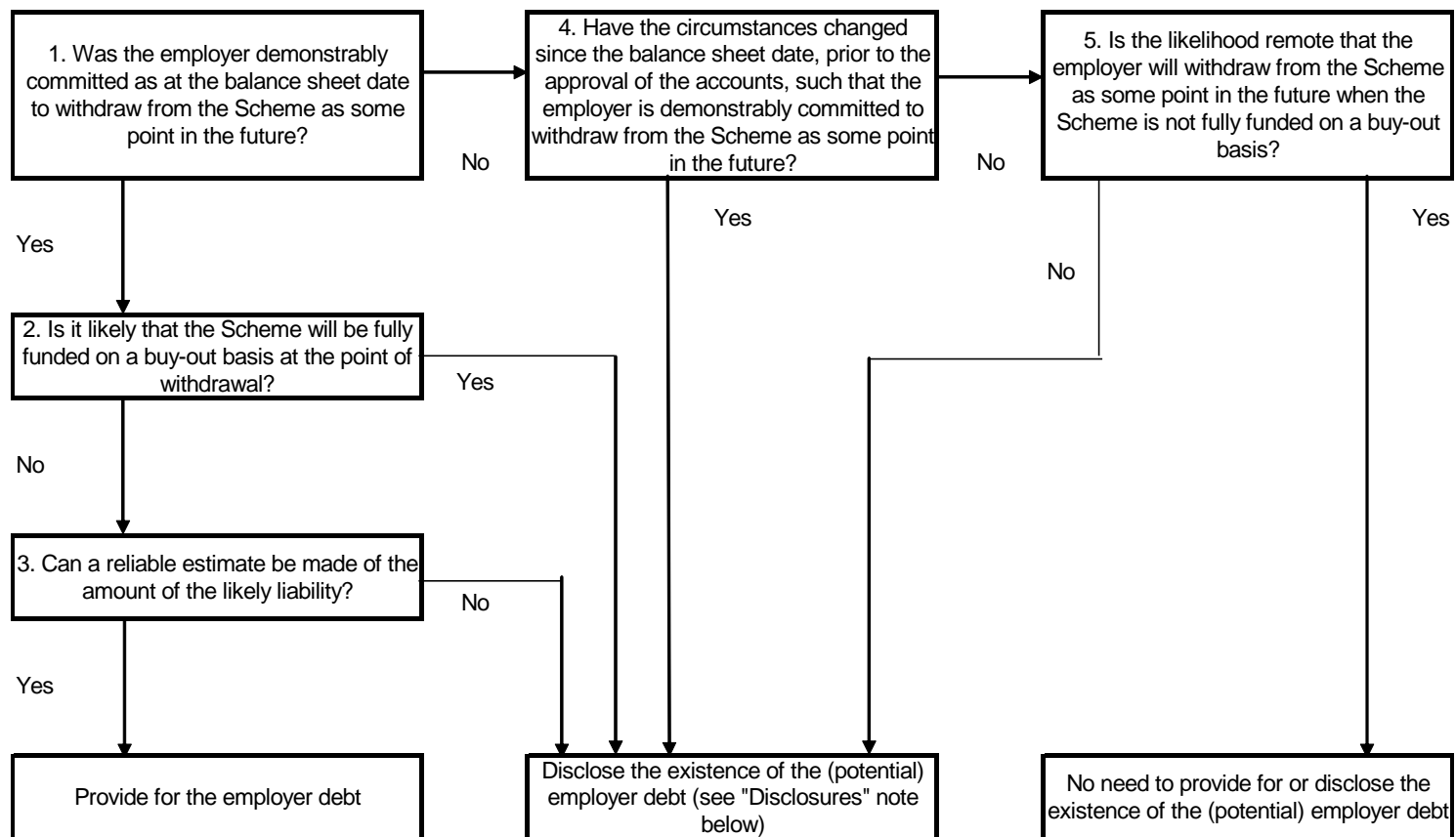
##### *Decision Trees*

- 56. The appropriate accounting treatment for the employer debt on withdrawal from the Plan needs to be determined by each participating employer taking into account its own individual circumstances.
- 57. The following Decision Trees and explanatory notes have been designed to aid the decision making process for employers.

ACCOUNTING TREATMENT DECISION TREE - EMPLOYER HAD WITHDRAWN FROM THE SCHEME AT THE BALANCE SHEET DATE



**ACCOUNTING TREATMENT DECISION TREE - EMPLOYER HAD NOT WITHDRAWN FROM THE SCHEME AT THE BALANCE SHEET DATE**



**Disclosures**

The actual disclosures will vary depending on the scenario:

If an employer arrives at this box via question 2 this is a disc losable contingent liability

If an employer arrives at this box via question 3 then the employer has an actual liability that it cannot quantify - this scenario is unlikely to occur in practice but has been included for completeness

If an employer arrives at this box via question 4 this is a non-adjusting post balance sheet event

If an employer arrives at this box via question 5 this is a disc losable contingent liability

## Notes to Decision Trees

*Had the employer withdrawn from the Plan on or before the balance sheet date?*

58. It is a question of fact whether or not an employer has withdrawn from the Plan as at a given date.
59. Employers may wish to refer to Appendix B, which details a number of scenarios under which an employer will be deemed to have withdrawn from the Plan, when considering this question.

*Was the employer demonstrably committed to withdrawing from the Plan at the balance sheet date?*

60. In order for an employer to be demonstrably committed to withdrawing from the Plan at the balance sheet date, FRS12 requires the existence of an event on or before the balance sheet date that created a valid expectation in one or more third parties affected by the event that the employer would withdraw from the Plan at a point in time after the balance sheet date.
61. As for the above question employers may wish to refer to the scenarios in Appendix B when considering this question.
62. Employers may also wish to review the examples in Appendix III of FRS12 and Appendix C of this guidance note when considering this question.

*Have the circumstances changed since the balance sheet date, prior to the approval of the financial statements, such that the employer is demonstrably committed to withdraw from the Plan at some point in the future?*

63. In order for an employer to become demonstrably committed to withdrawing from the Plan after the balance sheet date, FRS21 requires the existence of an event after the balance sheet date that creates a valid expectation in one or more third parties affected by the event that the employer would withdraw from the Plan at a later date.
64. The considerations are similar to those for the question above.
65. Employers may wish to review the examples in Appendix III of FRS12 and Appendix D of this guidance note when considering this question.

*Can a reliable estimate be made of the likely liability?*

66. FRS12 notes that cases where no reliable estimate can be made of a future liability will be extremely rare.
67. Under FRS12 the provision for an employer debt payable after the balance sheet date should be the best estimate of the expenditure required to settle the debt as at the balance sheet date.

68. An employer that is making a provision for an employer debt will need to take actuarial advice to determine the quantum of the provision required.

**Disclosure note**

69. The Pensions Trust has prepared draft disclosure notes for participating employers to assist employers in meeting the accounting requirements associated with their participation in the Plan.
70. These disclosure notes are available on The Pensions Trust's website at [www.thepensiontrust.org.uk](http://www.thepensiontrust.org.uk) > Document Library > Scheme Literature > Growth Plan Series 3 > Employer Literature.
71. The draft disclosure notes include sufficient information to enable employers to meet the requirements of FRS17 in respect of ongoing pension costs. In particular, the notes include details of the funding deficit as at the last actuarial valuation in September 2005 and the recovery plan agreed by the Trustee in order to clear the deficit.
72. These suggested disclosure note includes conditional paragraphs. These paragraphs cover the cases where employers treat the employer debt on withdrawal as a contingent liability or a provision and are included to enable employers to meet the requirements of FRS12 and FRS21 in respect of the employer debt on withdrawal from the Plan.
73. The Pensions Trust recommends that employers discuss the accounting treatment of their pension costs and related obligations in respect of their participation in the Plan with their own advisers and auditors in order to ensure that the treatment is appropriate given the employer's individual circumstances.

## **APPENDIX A**

### **APPORTIONMENT AND WITHDRAWAL ARRANGEMENTS**

#### **Scheme Apportionment Arrangement**

This is an arrangement under the Plan rules whereby some of a departing employer's share of the debt, other than the full buy-out share, is apportioned to the departing employer. The balance is then apportioned to some or all of the remaining employers. There is no minimum amount which must be paid by the departing employer, although a nominal debt of £1 will typically be apportioned to the departing employer. The Trustee must agree to the arrangement and they must be satisfied that the 'funding test' is met, which broadly means that the remaining employers can continue to meet their liabilities under the Schedule of Contributions and Recovery Plan. Regulator approval is not required, although the Regulator's Clearance Guidance suggests that the parties may sometimes wish to consider 'clearance'.

#### **Regulated Apportionment Arrangement**

This has a similar effect to a Scheme Apportionment Arrangement, but is only available if the Plan has already entered an 'assessment period' for the purposes of the Pension Protection Fund (PPF) or the Trustees believe this will happen within the next 12 months. There is no equivalent of the 'funding test' but Regulator approval is required, and there is an additional requirement that the PPF Board must not object.

#### **Withdrawal Arrangement**

This is an arrangement under which the departing employer pays its share of the deficit on the Plan's 'Technical Provisions' basis. Additionally, another person (which need not be a participating employer) takes on responsibility for the balance (under a so-called 'guarantee'), which will fall due in defined circumstances, including on winding up. The Trustee must agree to the arrangement and they must still be satisfied that the 'funding test' is met by reference to the remaining employers (although it must be assumed that the Trustee can have regard to the existence of the guarantee in considering this). The Trustee must also be satisfied that the guarantor can meet its obligations. Regulator approval is not required, although the Regulator's Clearance Guidance suggests that the parties may sometimes wish to consider 'clearance'.

#### **Approved Withdrawal Arrangement**

This is very similar to a Withdrawal Arrangement except that the amount which must be paid by the departing employer is normally less than under a Withdrawal Arrangement, and Regulator approval is required.

## APPENDIX B

### SCENARIOS

The following table details a number of scenarios under which an employer would be deemed to have withdrawn from the Plan. In each case an employer debt would become payable unless the Plan was fully funded on a buy-out basis as at the date of withdrawal.

Ref	Scenario	Withdrawal
A	Employer has at least one active member of the Plan as at 6 April 2008, continues to offer membership of the Plan to its employees and then ceases to employ at least one active member (i.e. because the last active member retires).	<p>The employer will be deemed to have withdrawn from the Plan on the date that it ceases to employ active member(s), unless the employer wishes to adopt the 'period of grace' provision under the regulations.</p> <p>If the employer wishes to adopt these provisions it must notify the Trustee either before or within one month of the date on which it ceased to employ active member(s).</p> <p>If the employer then enrolls another active member into the Plan within 12 months of the date on which it ceased to employ active member(s) then the employer will not be deemed to have withdrawn from the Plan.</p> <p>If the employer does not enrol another active member into the Plan during the grace period then the employer will be deemed to have withdrawn from the Plan on the date that it ceased to employ active member(s).</p>

<b>Ref</b>	<b>Scenario</b>	<b>Withdrawal</b>
B	<p>Employer does not have any active members of the Plan as at 6 April 2008 but continues to offer membership of the Plan to its employees and, at 6 April 2008, employs at least one employee that is eligible to join the Plan.</p> <p>After 6 April 2008 the employer does not enrol another active member into the Plan and then ceases to employ at least one employee that is eligible to join the Plan.</p>	<p>The employer will be deemed to have withdrawn from the Plan on the date that it ceases to employ at least one person that is eligible to join the Plan.</p> <p>(Please note: This scenario is based on the transition provisions detailed in points 36-39 of the main text. If the employer enrolls an active member on or after 6 April 2008 then the new regulations apply from the date on which the new active member is enrolled).</p>
C	Employer has closed the Plan to new entrants.	The employer will be deemed to have withdrawn from the Plan on the date that the last active member leaves pensionable service.
D	Employer intends to close the Plan to new entrants.	The employer will be deemed to have withdrawn from the Plan on the date after the Plan has been closed to new entrants when, the last active member leaves pensionable service.
E	Employer closes the Plan to future accrual.	The employer will be deemed to have withdrawn from the Plan on the date that the Plan is closed to future accrual.
F	Restructuring of an employer's business activities.	<p>This can trigger a withdrawal from the Plan in some circumstances.</p> <p>An employer that is considering a restructuring of its business activities is recommended to take legal advice on the pension implications of the proposed restructuring.</p>
G	The commencement of winding up of the Plan.	The employer will be deemed to have withdrawn from the Plan at a date chosen by the Trustee for winding up of the Plan.
H	Employer becomes insolvent.	The employer will be deemed to have withdrawn from the Plan on the date that the insolvency event occurs.

**Notes:** An employer will not have withdrawn from the Plan provided it has at least one employee that is an active member of the Plan.

An employer that only participates in the Plan as an Additional Voluntary Contribution (AVC) vehicle for their members will need to consider the above scenarios in respect of their employees that pay AVCs into the Plan. For example, in Scenario A above, an employer would be deemed to have withdrawn from the Plan if the last member paying AVCs into the Plan ceased making AVC payments (either because s/he had left the organisation or simply decided to stop making AVC payments while remaining as a main scheme member of an alternative pension arrangement with The Pensions Trust).

**Examples of restructuring of an employer’s business activities that could trigger an employer debt**

Ref	Description
1	<p>Organisation A participates in the Plan. Organisation B then takes on the assets and liabilities of Organisation A. Following the transfer of engagements Organisation A no longer has any employees and therefore cannot have any active members in the Plan.</p> <p>Organisation A will be deemed to have withdrawn from the Plan and an employer debt will crystallise unless the Plan was fully funded on a buy-out basis at the date of the transfer of engagements.</p> <p>It should be noted that this applies even if the former employees of Organisation A continue to participate in the Plan following the transfer of engagements to Organisation B.</p>
2	<p>Organisation C is an unincorporated body that participates in the Plan. Organisation C decides to incorporate to form C Ltd. On incorporation Organisation C no longer exists and therefore cannot have any active members in the Plan.</p> <p>Organisation C will be deemed to have withdrawn from the Plan and an employer debt will crystallise unless the Plan was fully funded on a buy-out basis at the date of incorporation.</p> <p>It should be noted that this applies even if the former employees of Organisation C continue to participate in the Plan following incorporation.</p>

In view of the complexities surrounding the new employer debt provisions the Trustee recommends that any employer that is considering a restructuring of its business activities should take legal advice on the pension implications of the proposed restructuring.

## APPENDIX C

### SCENARIOS

The following table details a number of scenarios to assist in determining whether an employer was demonstrably committed to withdrawing from the Plan as at the balance sheet date.

Ref	Example
1	<p>Organisation A has a 31 March year end. Organisation A participates in the Plan. The Directors of Organisation A started a consultation process with employees in February with a view to closing the Plan to future accrual. The consultation is due to be completed by the end of May and the Directors will make their final decision on future pension arrangements at their Board meeting in June.</p> <p>Organisation A was not demonstrably committed to withdrawing from the Plan as at the balance sheet date since no decision to close the Plan to future accrual had been made as at 31 March.</p>
2	<p>Organisation B has a 31 March year end. Organisation B participates in the Plan. The Directors of Organisation B started a consultation process with employees in January with a view to closing the Plan to future accrual. The consultation was completed in March and the Directors made the decision to close the Plan to future accrual with effect from 1 July at their Board meeting in April. The decision was communicated to employees in April.</p> <p>Organisation B was not demonstrably committed to withdrawing from the Plan as at the balance sheet date since no decision to close the Plan to future accrual had been made as at 31 March.</p>
3	<p>Organisation C has a 31 March year end. Organisation C participates in the Plan. The Directors of Organisation C started a consultation process with employees in the previous November with a view to closing the Plan to future accrual. The consultation was completed in January and the Directors made a 'decision in principle' to close the Plan to future accrual with effect from 1 July at their Board meeting in March. This decision was ratified at a further Board meeting in April and communicated to employees in April.</p> <p>Organisation C was not demonstrably committed to withdrawing from the Plan as at the balance sheet date, since the final decision to close the Plan to future accrual had not been made as at 31 March.</p> <p>(The Directors could have decided in April not to close the Plan to future accrual.)</p>

Ref	Example
4	<p data-bbox="276 237 1434 488">Organisation D has a 31 March year end. Organisation D participates in the Plan. The Directors of Organisation D started a consultation process with employees in the previous November with a view to closing the Plan to future accrual. The consultation was completed in January and the Directors made the decision to close the Plan to future accrual with effect from 1 July at their Board meeting in March. The decision was communicated to employees in April. The financial statements were approved for issue by the Directors in May.</p> <p data-bbox="276 528 1434 667">Organisation D was not demonstrably committed to withdrawing from the Plan as at the balance sheet date, since the decision to close the Plan to future accrual had not been communicated to employees as at 31 March, i.e. the balance sheet date.</p> <p data-bbox="276 707 1434 815">(Accordingly, the employees of Organisation D could not have had a valid expectation as at the balance sheet date that the Plan <b>would</b> be closed to future accrual and the Directors could therefore have reversed their decision in April.)</p>
5	<p data-bbox="276 860 1434 1111">Organisation E has a 31 March year end. Organisation E participates in the Plan. The Directors of Organisation E started a consultation process with employees in the previous November with a view to closing the Plan to future accrual. The consultation was completed in January and the Directors made the decision to close the Plan to future accrual with effect from 1 July at their Board meeting in March. The decision was communicated to employees in March. The financial statements were approved for issue by the Directors in May.</p> <p data-bbox="276 1151 1434 1290">Organisation E was demonstrably committed to withdrawing from the Plan as at the balance sheet date, since the decision to close the Plan to future accrual had been made and communicated to employees as at 31 March, i.e. the balance sheet date.</p> <p data-bbox="276 1330 1434 1438">(The communication to employees created a valid expectation as at the balance sheet date that the Plan <b>would</b> be closed to future accrual with effect from 1 July.)</p>

## APPENDIX D

### SCENARIOS

The following table details a number of scenarios to assist in determining whether an employer became demonstrably committed to withdrawing from the Plan after the balance sheet date but before the approval of the financial statements.

Ref	Example
1	<p>Organisation A has a 31 March year end. Organisation A participates in the Plan. The Directors of Organisation A started a consultation process with employees in February with a view to closing the Plan to future accrual. The consultation is due to be completed by the end of May and the Directors will make their final decision on future pension arrangements at their Board meeting in June. The financial statements were approved for issue by the Directors in May.</p> <p>Organisation A was not demonstrably committed to withdrawing from the Plan when the financial statements were approved in May since no decision to close the Plan to future accrual had been made at that point in time.</p>
2	<p>Organisation B has a 31 March year end. Organisation B participates in the Plan. The Directors of Organisation B started a consultation process with employees in January with a view to closing the Plan to future accrual. The consultation was completed in March and the Directors made the decision to close the Plan to future accrual with effect from 1 July at their Board meeting in April. The decision was communicated to employees in April. The financial statements were approved for issue by the Directors in May.</p> <p>Organisation B was demonstrably committed to withdrawing from the Plan when the financial statements were approved in May since the communication to members in April created a valid expectation that the Plan <b>would</b> be closed to future accrual with effect from 1 July.</p>

Ref	Example
3	<p data-bbox="276 237 1430 488">Organisation F has a 31 March year end. Organisation F participates in the Plan. The Directors of Organisation F started a consultation process with employees in February with a view to closing the Plan to future accrual. The consultation was completed in May and the Directors made the decision to close the Plan to future accrual with effect from 1 September at their Board meeting later in May. The decision was communicated to employees in June. The financial statements were approved for issue by the Directors in May.</p> <p data-bbox="276 528 1414 633">Organisation F was not demonstrably committed to withdrawing from the Plan when the financial statements were approved in May since the decision to close the Plan to future accrual had not been communicated to employees until June.</p> <p data-bbox="276 674 1422 779">(Accordingly, the employees of Organisation F could not have had a valid expectation as at the balance sheet date that the Plan <b>would</b> be closed to future accrual and the Directors could therefore have reversed their decision in June.)</p>