

IAPF Proposes 'Examinership Process' for Pension Schemes in Crisis

Jill Kerby in conversation with Patrick Burke, IAPF Chairman

The Irish Association of Pension Funds has published details of proposals made jointly with the Society of Actuaries in Ireland to improve the level and fairness of protections available for members of private sector pensions while addressing the sustainability of individual schemes.

At a time when official estimates suggest that over 90% of private sector schemes have insufficient assets to cover their liabilities (and the ability of employers and employees to increase contributions is severely curtailed) IAPF suggest that the Government must urgently introduce legislation that would help many schemes to survive through turbulent markets.

"Just as an Examiner can protect the stakeholders of an insolvent company that has a viable business model so too there are many insolvent pension schemes whose members could benefit from an Examinership process.

IAPF and Society of Actuaries in Ireland have worked together to prepare proposals which would allow liabilities to be re-structured, which would strengthen employer commitments, which would result in greater fairness amongst members and which would enhance the amounts available in the event of insolvent wind-up."

The IAPF does not claim that the proposal developed with the Society of Actuaries will resolve all cases of insolvent pension schemes nor do they claim that the issues can be addressed painlessly.

"The current framework is flawed in many respects principally because it wasn't designed to deal with current stresses. Insolvent schemes are at risk of abandonment with employees being left with little or no benefit; pensions in payment (irrespective of size) and prospective increases on those pensions receive absolute priority over the entitlements

of all other employees regardless of the service, age or contributions made by each; accrued entitlements cannot be re-structured to recognise fundamental changes such as improved life expectancy; and, despite EU Directives requiring State protection – there are no safety nets in place to protect employees when there are insufficient assets in their fund to pay their benefits."

"We propose that priority protection for pensioners should be set at a socially desirable level and limited to a specified percentage of the pension currently in payment subject to a monetary minimum and maximum. As remaining benefits would be treated equally with the claims of current employees and deferred members this would result in a fairer distribution of assets amongst the membership."

"We argue that the introduction of a mechanism to enable the alteration of accrued entitlements of all members could enable a scheme to survive and ultimately pay altered benefits rather than force an insolvent wind-up in distressed circumstances. In such circumstances it is also appropriate to consider legislative intervention which would facilitate contingent employer debt obligations in order to reduce the risk of abandonment and to counter-balance the alteration of accrued entitlements."

"Finally, we have proven that the cost of securing pensioner liabilities can be significantly reduced through the provision – on a nil cost basis – of a State Pension Purchase Scheme. We call for the immediate introduction of such a scheme

as this would reduce the effects of scheme deficits on current employees.

While the Robbins judgement in the European Court of Justice confirms the responsibility of the State to protect the pension rights of those who worked for insolvent employers we are concerned that the State neither has the capacity, the appropriate legislative framework nor the infrastructure necessary to meet this responsibility at present.

