

The Corona Virus Pandemic and its impact on Pension Trustee Liability Insurance

Introduction

The current Corona Virus pandemic and subsequent measures being taken by UK and Global Governments are unprecedented in peacetime, and demonstrate the deep concerns that experts, officials, and indeed us all, have as to the impact of the disease on humanity and the economy.

At OPDU, we have all converted to a remote working model. Nevertheless, work goes on, and we are continuing to deal with our PTL and Discontinuance/Run-Off business lines as usual.

Over recent days as well as new business enquiries we have received a number of enquiries from concerned clients as to the impact of the pandemic on cover afforded to Trustees under the policies we provide, and as such, we can make the following comments to both reassure and clarify the current position.

Pension Trustee Liability Cover

PTL insurance covers trustees, pensions employees, sponsor and schemes for liability arising from allegations of Wrongful Act or from Investigations from tPR or other official bodies.

Because Trustees are always ultimately legally liable for the running of their scheme, failures of their third party advisors and administrator will fall back onto the Trustees. However, they may have recourse to compensation from such provider through the contracts they have with them.

Ultimately, PTL is not designed to provide cover for business interruption or for scheme funding shortfalls.

Nevertheless, we can confirm that there have been no changes to our Policy cover as a result of the Corona Virus outbreak.

In addition, should any trustee or pensions employee become infected with the virus, cover under the policy will continue to be provided in full in respect of them.

Future Risks

Although we are less concerned about the immediate risk to Trustees, it is important to try to foresee potential problems in the future since scheme members, regulators and other stakeholders may use hindsight to allege negligence and non-compliance.

In this regard, we suggest the Trustees ensure that they consider taking the following actions;

- Ensure that Members are reminded to keep up to date their Nomination of Beneficiaries Forms. These forms provide the basis for the Trustees discretionary decisions on death lump sums
- Ensure that administrators and any other third party advisors and providers have systems and processes in place to ensure business as usual and that service levels are not adversely impacted
- Review the sponsors covenant in the light of the economic impact of the crisis. This will be particularly important if the sponsor is vulnerable to the current business restrictions such as retail, hospitality, public transport etc
- In the event that the Sponsor asks for suspension of contributions and/or longer deficit recovery periods, ensure advice is taken and the Scheme is treated equally with other stakeholders, following due process at all times
- Ask the Schemes investment advisor to review scheme investments in the light of the current situation to see if any changes are recommended
- Ensure that the Scheme's cashflows are sufficient to meet the demand for benefits and take action to mitigate any potential shortfalls
- If the scheme is DC, or has a DC section, the Trustees may take advice as to the ongoing suitability of the default investment offer and optional investment assets categories which are available to members
- Take extra care for the eventuality of scams as fraudsters may prey on vulnerable victims in a time of anxiety and worry <https://www.fca.org.uk/scamsmart>
- Ensure that you follow the law regarding any transfer requests that you may receive

We recommend that you take action on these points now and not wait until the next trustee meeting. Use telecons and emails to deal with these matters. Its really about making sure that the scheme is governed and run appropriately in the current circumstances.

OPDUs PTL Policy is on a Claims Made basis and will respond to claims made during the policy period irrespective of when the claim matter arose provided that disclosure of matters likely to give rise to a claim is made on renewal. The policy will respond to defend you against allegations of Wrongful Acts and to respond to Investigations.

Here is a link to the Pension Regulators' Guidance for more information: <https://www.thepensionsregulator.gov.uk/en/covid-19-coronavirus-what-you-need-to-consider>

Conclusion

At the moment, although we are living through unprecedented times, from a pension trustee liability perspective, we believe that trustees need not be concerned about the cover under their OPDU PTL policy.

We suggest that Trustees take prompt action to deal with any potential future issues that may arise and proactively engage with their advisors and providers as set out above.

OPDU is here to help. We can provide free Trustee training sessions via Telecon and attach a copy of our training flyer for your information. We also provide a free Helpline for enquiries. Please call 0207 7204 2754 or email enquiries@opdu.com. We will be happy to help.

Please stay safe and concentrate on your health and that of your loved ones and neighbours. We will take care with the insurance cover for you to give you the peace of mind that you need in these challenging times.

Later in the year we plan to hold a drinks and networking event in late September in central London should circumstances allow. We will send further details in due course. It would be good to see you there.

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