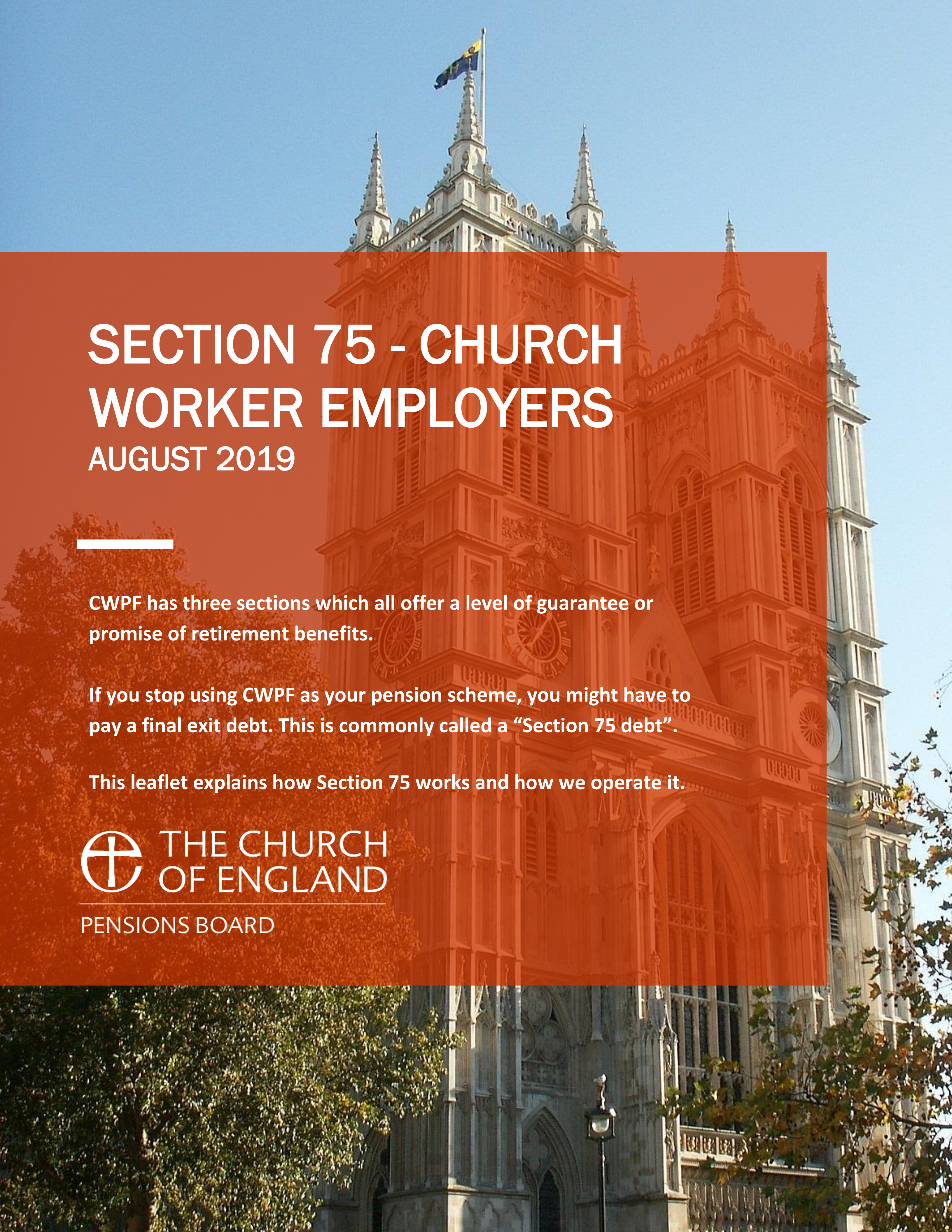

SECTION 75 - CHURCH WORKER EMPLOYERS

AUGUST 2019

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If you stop using CWPF as your pension scheme, you might have to pay a final exit debt. This is commonly called a "Section 75 debt".

This leaflet explains how Section 75 works and how we operate it.

THE CHURCH OF ENGLAND

PENSIONS BOARD

Section 75 for Church Workers Pension Fund (CWPF)

Background

CWPF provides pensions for lay workers in organisations associated with the Church of England.

It has three sections which all offer a level of guarantee or promise of retirement benefits. If you stop using CWPF as your pension scheme, you might have to pay a final exit debt. This is commonly called a “Section 75 debt”.

Section 75 law is complex. This guide explains how it works in broad terms, based on current law. Whether you have triggered Section 75, or you might do in the future, you should take your own legal advice.

CWPF is used by a wide range of Church of England organisations which are not connected to each other. Each organisation picks which CWPF section it uses and what benefits it provides. Some organisations might use more than one section. This makes CWPF a ‘non-associated, multi-employer’ pension scheme.

CWPF includes:

1. Defined Benefit Scheme (DBS)
2. Pension Builder Classic (PB Classic)
3. Pension Builder 2014 (PB 2014)

We notionally separate the assets for each section and then notionally separate the assets for each employer.

If you trigger a ‘cessation event’, you are responsible for the liabilities your members have built up, plus a share of any ‘orphan’ liabilities (see page 5). If you use more than one section, we assess your liabilities for each section separately.

Cessation events

You will trigger a ‘cessation event’ if you:

- no longer employ someone who is accruing benefits in CWPF and you do not intend to enrol anyone else,
- become insolvent or you begin to wind up, or,
- stop using CWPF to provide pensions for your employees.

If you trigger a cessation event, Section 75 of the Pensions Act 1995 requires you to pay a share of the ‘buy-out’ deficit. This is the amount an insurance company would charge to pay members’ benefits.

We measure each section separately, so the buy-out deficit might be different for each section.

Your share of the deficit will reflect your liabilities (your current and former employees) against all other employers who use that section, plus a share of orphan liabilities and cessation costs.

In practice this means larger employers pay a greater share of the deficit.

What if we stop using one section but still use another. Does this trigger a Section 75 debt?

Section 75 only applies when you no longer have any members accruing benefits in CWPF. As DBS, PB Classic and PB 2014 are all part of CWPF, you can move between sections without triggering a Section 75 debt.

Any Section 75 debt is deferred until you stop using CWPF altogether. At this point the debt is triggered and calculated for all the sections you have used.

What about employer changes and reorganisations?

If you change your organisational structure you might trigger a cessation event and a Section 75 debt.

This might happen if you incorporate with limited liability or merge with another organisation. If this happens you may be able to agree an "apportionment arrangement" which assigns your liabilities to the new employer or the organisation you are merging with.

We need to be sure the new organisation taking over your liabilities has a covenant (financial strength) strong enough to support all the promised benefits before we agree this.

What if our last member left suddenly and we didn't intend to trigger Section 75?

The most common way of triggering a cessation event is when your last active member leaves, retires or die. There are actions you can take to avoid triggering a cessation event:

Period of grace

You can tell us you would like a "period of grace". If you tell us within 3 months of your last member leaving, you have 12 months (possibly up to 3 years with our agreement) to employ someone new and enrol them into CWPF.

This gives you time to put someone new into CWPF and avoid a Section 75 debt. However, plans can change. If you do not employ someone new or you decide to use a different pension scheme, the cessation event is backdated, and any Section 75 debt becomes due. This also applies if you become insolvent during the period of grace.

Deferred debt arrangement

Instead of paying the Section 75 debt, we may agree a 'deferred debt arrangement'.

You would need to meet specific conditions and we would explain them at the time.
If we agree, we will review the funding level of the sections you have used from time to time. If they reach 100% or more on a 'buy-out basis', you can ask us to cancel the arrangement. You can then leave without paying a Section 75 debt.

You will have no further liability to CWPF, even if the funding level later drops below 100%. While your debt is deferred, we can ask you for additional payments. This could include:

- deficit recovery payments,
- administration costs,
- advisor costs we incur to run the deferred debt arrangement.

How do I know which is the best option?

If you trigger a cessation event, we will explain your options. Please talk to us as soon as you can if you think you may trigger a debt.

How is a Section 75 debt calculated?

CWPF is different to typical pension schemes - there are many unconnected employers that use different CWPF sections, with each section providing different types of benefits.

CWPF has different sections but the assets and liabilities are not legally segregated. However, as far as permitted by law we use the mechanism of a 'flexible apportionment agreement' to notionally separate the CWPF sections for calculating the Section 75 debt. The intention is that you pay a Section 75 debt for each section you use plus any share of the 'orphan liabilities' for that section.

For example - if you only use Pension Builder Classic, you do not have to pay any Section 75 debt for other CWPF sections. If you use more than one section, you will have to pay your Section 75 debt in each.

The calculation varies for each section. The estimated costs of your share of winding up the section is included in your Section 75 debt, but cessation costs are added on top.

Defined Benefit Scheme

The total debt is:

- the cost of buying deferred annuities for the members in your sub-pool, less the assets in your sub-pool

plus,

- your share of any shortfall of assets in the Life Risk Section calculated by reference to the cost of buying annuities for all the members in the Life Risk Section

plus,

- your share of the orphan liabilities (currently 0.4% of each employer's buy-out liability).

Pension Builder Classic

The debt is your share of the estimated shortfall between the cost of securing all PB Classic benefits with an insurer, less the PB Classic assets.

Pension Builder 2014

The debt is the employer's share of the estimated shortfall between the cost of securing all PB 2014 benefits with an insurer, less the PB 2014 assets.

Can we find out what our current Section 75 debt might be?

We include an estimate of your Section 75 debt with your valuation report every 3 years.

You can ask for an up to date figure between valuations, but this work is complex you will need to meet the actuary's fees.

The fee currently starts at £1,800 and increases if you have more than 5 members.

This is the fee per section. If you have used the Defined Benefit Section and Pension Builder Classic, you must pay two sets of fees.

What are orphan liabilities?

'Orphan liabilities' are liabilities in respect of members whose benefits accrued as a result of service with an employer that no longer participates in the scheme.

Most orphan liabilities arose in the past before the current Section 75 arrangements were in place (meaning employers left without being required to adequately fund for their members). Orphan liabilities may arise now if employers who leave are unable to meet their debt.

Any liability for 'orphans' is shared among the remaining participating employers by section.

Is it true, at least in theory, that we could become responsible for other employers' liabilities?

Yes. CWPF operates on a 'last man standing' basis. This means that if an employer leaves CWPF and is unable to pay its Section 75 debt, any remaining unfunded liabilities are shared between the remaining employers.

What is a 'last man standing' scheme?

CWPF is a last man standing scheme. There is no option or requirement to segregate assets when a participating employer leaves.

When an employer leaves, it pays a Section 75 debt. However, if the employer is unable to meet those costs or financial experience of the scheme in unfavourable, the responsibility for those pension liabilities passes to the remaining employers. In theory this could keep happening until only one employer is left.

How long do we have to pay the debt?

Unfortunately, there is nothing in the regulations that allows us to delay payment or spread the amount over instalments unless we agree a deferred debt arrangement, or you have applied for a 'relevant transfer deduction'.

If you trigger a debt and do not apply for a period of grace, or we cannot defer your debt, you need to pay it straight away.

Do we have to pay a share of any deficit in other CWPF sections?

No. We have 'flexible apportionment agreements' which notionally separates all CWPF sections.

You only pay a share of the buy-out deficit in the sections you use. For example, if you only use PB Classic, you do not have to pay a share of any buy-out deficit in the DBS or PB 2014. If you use more than one section, you will have to pay your share of any buy-out deficit in each.

Can I member transfer out after we trigger a debt?

Yes - they still have the right to move their pension to another provider.

Individual or bulk transfers

If members would like to transfer their benefits, or you intend to bulk transfer members to another pension scheme, you can choose to reduce your Section 75 debt through a ‘relevant transfer deduction’.

This suspends the section 75 debt process while we wait for the relevant transfers to be completed. Once liabilities are transferred out this should reduce the Section 75 debt. You need to let us know if you want to do this and any transfers need to take place within 12 months.

This reflects our understanding of current legislation and practice. You should talk to a financial or legal adviser if you need specific guidance or advice.