The Pensions Regulator	Standard Procedure DETERMINATION NOTICE under Section 10(2)(b) and section 96(2)(a) of the Pensions Act 2004 ("the Act")	The Pensions Regulator case ref: XXXXXXX
	XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	

- The Determinations Panel ("the Panel") met to determine whether XX XXXXXXXXXXXXX should be given notice in writing pursuant to section 29(5) of the Pensions Act 1995 ("the 1995 Act") to waive XXX disqualification to act as trustee of the Scheme. This is a reserved regulatory function under the Act and may only be exercised by the Panel. The request to exercise this power is an application under section 10(2)(b) of the Act.

Directly Affected Parties ("DAPs")

- 3. The Warning Notice specified the following parties as being directly affected by the regulatory action outlined therein.

Details of the Scheme

4. The Scheme is a defined contribution scheme open to future accrual with seven members, which was established as a small self-administered pension scheme (SSAS). The SSAS status was revoked following the pensions tax simplification which took place in April 2006. Nevertheless Small Schemes continue to benefit from some relaxations of the rules, for example, the restrictions on Employer Related

Investments in section 40 of the 1995 Act do not apply to Small Schemes. The Regulator understands that the Scheme qualified as a Small Scheme prior to the Applicant's disqualification.

5. The Applicant and six other Trustees (excluding XXXXXXXXXXXX, an independent, professional trustee) are the only members of the Scheme.

Background to Application

- 7. On XXXXXXXXX, the Applicant applied to the Regulator to have XXX disqualification from acting as a trustee waived in respect of this Scheme. If granted, this would enable the Applicant to be re-appointed as a trustee of the Scheme thereby restoring the Scheme's Small Scheme status.
- 8. Following a request from the Regulator for further information, which initially received no response, the Regulator was provided with additional information including letters of support for the Applicant from each of the Schemes' remaining Trustees. A Warning Notice was issued to the Applicant and the Trustees for representations in XXXXXXX

- 12. Following an initial hearing, the Panel wrote to all parties requesting further information in relation to the application both as to the nature of the offences committed by the Applicant and in relation to the proposal to split the Scheme. It is apparent from replies to this correspondence that:-
 - (i) The Applicant's offence related to the transfer of speeding points to a third party on more than one occasion;

Decision

Reasons for decision

- 14. In making its decision the Panel had regard to the objectives of the Regulator as set out in Section 5 of the Act and to the matters mentioned in Section 100.
- 16. The Panel noted that the effect of declining to grant the waiver was that there would be a detrimental impact on the rest of the members of the Scheme in that the Scheme would not regain its small scheme status. Whilst the Panel was mindful of the Regulator's objective to protect the benefits of members under occupational pension schemes, this had to be weighed against the objectives of the Regulator to protect all members of the scheme and to promote and improve understanding of the good administration of work-based pension schemes.
- 17. It would be open to the Applicant to make a new application in the future, if the scheme were to be split and were all co-trustees/members to clearly agree to the application. The Panel would, however, need to be persuaded as to the circumstances in which it would then be appropriate

for the Applicant to be a trustee bearing in mind the nature of the convictions.

18. **Appendix 1** to this Determination Notice contains important information about the Directly Affected Parties' rights to refer this decision to the Upper Tribunal.

Chairman: Andrew Long

Dated: 15 August 2014

Referral to the Tax and Chancery Chamber of the Upper Tribunal ("the Tribunal")

You have the right to refer the matter to which this Determination Notice relates to the Tribunal. Under Section 103 of the Pensions Act 2004 ("the Act") you have 28 days from the date this Determination Notice is given to refer the matter to the Tribunal or such other period as specified in the Tribunal rules or as the Tribunal may allow. A reference to the Tribunal is made by way of a written notice signed by you and filed with a copy of this Determination Notice. The Tribunal's address is:

The Tax and Chancery Chamber of the Upper Tribunal 45 Bedford Square London WC1B 3DN Tel: 020 7612 9700

The detailed procedures for making a reference to the Tribunal are contained in section 103 of the Act and the Tribunal Rules.

You should note that the Tribunal Rules provide that at the same time as filing a reference notice with the Tribunal, you must send a copy of the reference notice to The Pensions Regulator. Any copy reference notice should be sent to:

> Determinations Panel Support The Pensions Regulator, Napier House Trafalgar Place Brighton BN1 4DW.

Tel: 01273 811852