# Housing briefing, July 2022
# SHPS benefit review: FAQs

Uncertainties around member benefits and employer liabilities following the SHPS benefit review are causing widespread concern. This is another pensions headache for housing employers, and we have every sympathy.

In this briefing, we answer questions that many of our clients have asked us in recent weeks.

In summary, our current view is:

- There is little scope for action until court documents become available. At this stage, associations should focus on understanding and planning ahead.
- The Trustee will be arguing in court for the status quo (i.e. the most employer-friendly position). This is a welcome move.
- The appropriate group to represent employers' interests is the SHPS Employer Committee (EC). Any attempt to form other groups risks fragmenting the employer response.

**Read our June 2022 housing briefing** for more details of SHPS benefit review and its impact.

### Q1. Why might SHPS liabilities increase?

TPT announced in May that there is some uncertainty about member benefits in the SHPS.

Among the areas of uncertainty raised, the most significant is the pension increases applying to benefits earned before December 2003.

It's essentially a question of whether these increases should be linked to CPI or RPI inflation. CPI has been applied in practice since 2011, but perhaps RPI (the higher of the two) should have been used.

### Q2. When will we know more?

The Trustee received legal advice that it should ask the court to provide clarity.

TPT expects to be able to share court documents with employers later in 2022, with court proceedings and judgment expected in the second half of 2024.

The Trustee is going to court to argue the case for no change (i.e. the most employer-friendly position). This is positive for employers.

### Q3. What will be the impact?

The total additional liabilities that may potentially arise are estimated at £233m (around 3.9% of the total liabilities).

This figure is the aggregate for SHPS as a whole as at 30 September 2021.

### Q4. Are all employers affected in the same way?

No. The impact on individual employers will vary, in part depending on the proportion of benefits earned by their members before and after December 2003.

### Q5. Do schemes often go to court?

There are around 5,000 Defined Benefit pension schemes in the UK. While the vast majority have not been the subject of court cases, there are frequent court cases involving pension schemes.

In particular, pension increases linked to inflation have, to a certain extent, been subject to a scheme 'rules lottery' on whether CPI or RPI inflation should apply. On some of these cases, employers and trustees have asked the court to decide.

### Q6. Who is looking out for employers' interests?

The SHPS EC is nominated by SHPS employers to act as their representative for consultation with the Trustee. This means that the SHPS EC is best placed to coordinate views, lead engagement with the Trustee, and represent the interests of all employers. Attempts to form other groups are not efficient and risk fragmenting the response from employers as a whole.

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### Q7. Are other TPT schemes affected?

Yes. Other schemes affected include:

- Single-employer schemes created by a bulk transfer from SHPS
- Scottish Housing Associations' Pension Scheme
- Independent Schools' Pension Scheme
- Growth Plan.

First Actuarial advises the largest single employer schemes in TPT and some of the representative employer committees. We know from speaking to our clients that it makes sense for employers and their committees to continue to work together.

### Q8. How did this affect FRS 102 this year?

TPT did not make allowance in its online FRS 102 tool for any potential increase in liabilities from the benefit review. They quoted the uncertainty of the outcome of court proceedings and difficulties in allocating liabilities for members with split service across employers.

In our experience, most if not all auditors have accepted that it was reasonable not to make an allowance this year, given this level of uncertainty.

### Q9. How will this affect the next valuation?

The next actuarial funding valuation has an effective date of 30 September 2023, with any contributions expected to apply from 1 April 2025.

TPT anticipates that it will be too early for the 2023 valuation to take account of the potential extra liabilities. However, this position could change. The SHPS EC will discuss this with the Trustee as part of valuation discussions and will continue to engage regularly as a matter of course.

### Q10. Should employers take their own actuarial advice?

We know SHPS employers are keen to understand the impact on their liabilities. However, at this stage there is not enough information or data for employer advisers to calculate the impact for individual employers.

We recommend that employers make representations to the SHPS EC and TPT. They should stress that individual employer liability impacts (even if approximate) will eventually be required and call for a plan to give employers this information.

Employers should also add this issue to their risk register. We are already covering this issue in our governance updates for clients.

### Q11. Should employers take their own legal advice?

Not at this stage. We suggest employers engage with the SHPS EC. If employers need legal advice once the court documents are available, then the SHPS EC is the appropriate body to coordinate on behalf of employers.

Even though the impact on each employer will be different, the issues to consider will be the same and individual employers should take care not to duplicate work already been done.

### Q12. If the Trustee loses its case, who will pay for the extra liability?

There is, of course, a mechanism for employers to pay for funding deficits through the three-yearly actuarial valuations. However, it may be possible to argue for a professional negligence claim to be brought against the Trustee or its advisers. This might meet some costs if successful, but it's too early to make a judgment on this.

### Q13. Will First Actuarial work with other advisers on behalf of employers?

Absolutely. We already work with a number of legal firms on issues relating the sector's pension provision – from SHPS bulk transfers to LGPS deferred debt agreements. First Actuarial always puts its clients' needs first and aims to deliver the best possible outcome.

### Q14. How should employers proactively manage pension risks?

First Actuarial strongly encourages proactive monitoring of pension risks. This is the basis of our **firstwatch scheme governance service for housing associations**. Our support is tailored to each employer's needs and principles, aligning with and supporting its overall governance structure.

### Q15: Where can I get further information?

First Actuarial provides independent advice to more housing associations than any other firm.

We help our clients understand the issues, gauge the potential impact and develop a strategy for the future.

To discuss this briefing or any area of pensions, please contact your usual First Actuarial consultant or any of our nationwide housing specialists.

www.firstactuarial.co.uk/nfp/housing-associations/