



Press Release

'The Government faces some tough decisions following ECJ ruling' say JLT Benefit Solutions and Pension Capital Strategies

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25th January 2007, London: The European Court of Justice (ECJ) has today delivered its long awaited ruling in the case of Carol Robins and others vs Secretary of State for Work and Pensions, concerning the protection that is given to members of insolvent pension schemes on the failure of the employer.

The ECJ has made the following key rulings:

- The European Directive governing the protection of members' pension does give Member States discretion on its implementation and does **not** require an absolute guarantee of 100% protection of members' benefits.
- The system established by the UK for implementation of the European Directive, i.e. the introduction of the Financial Assistance Scheme and the Pension Protection Fund, "does not constitute proper implementation of Article 8 thereof".
- The question of whether the UK Government is liable for any losses as a result of the incorrect implementation of the European Directive is dependent upon a national court finding that there has been a "manifest and grave disregard by the State for the limits set on its discretion" and is therefore referred back to the UK courts.

Commenting on this ruling, Charles Cowling, Managing Director of Pension Capital Strategies, a division of the Jardine Lloyd Thompson Group, said:

"This ruling is a partial victory for those members of the ASW pension scheme and others who lost most of their pension on the failure of their employer. But it does not give clarity on how the European Directive should have been implemented and what protections should have been put in place. Nor does it give clarity on whether the UK Government will be forced into making additional compensation payments to former ASW employees and others who have lost pensions. However it is clear that the European Court believes that the UK's Financial Assistance Scheme and, quite possibly, the Pension Protection Fund do not provide adequate protection to members



of UK pension schemes.

The ECJ made particular note of the fact that in 2004, figures provided by the UK to European Commission showed that about 65 000 members of pension schemes suffered the loss of more than 20% of their expected pension benefits and some 35 000 of them suffered losses exceeding 50% of those benefits; and a legal system, which can lead to a guarantee of pension benefits which is less than half of the pension scheme member's entitlement, cannot be considered to fall within the definition of the word 'protect' used in Article 8 of the Directive.

The UK Government will likely therefore be forced to make changes to improve the protection provided by the Financial Assistance Scheme and, possibly, the Pension Protection Fund, potentially at huge cost. The big question then is, who should pick up this cost? Will it be the taxpayer or employers and their pension schemes? Either way we have not heard the end of this story and there are likely to be many battles ahead."

Phil Wadsworth, Head of Consulting, JLT Benefit Solutions further challenged the Government, " They must end the state of uncertainty and not hide behind the High Court. It is the Government's mess and it should be bold enough to act."

Notes to Editors

About Jardine Lloyd Thompson Benefit Solutions

Jardine Lloyd Thompson Benefit Solutions is part of Jardine Lloyd Thompson Employee Benefit Group, which employs over 800 professional staff in 10 offices in the UK and has revenues of some £70m.

Jardine Lloyd Thompson Benefit Solutions has four main operating divisions:

Administration Solutions

Focuses on third party pensions and benefit administration.

Benefit Solutions

Delivers actuarial, investment, pension, benefit and reward consulting services. As well as group risk, healthcare and flexible benefits services.

Premier Pension Services

Supplies a range of SIPP and SSAS services to IFAs, accountants and lawyers.

Financial Institutions Services

Provides outsourcing solutions for a range of pension products on behalf of life companies.



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The Jardine Lloyd Thompson Employee Benefits Group also includes Profund and Pension Capital Strategies.

The Jardine Lloyd Thompson Group of companies is a leading risk management adviser, insurance and reinsurance broker. The Jardine Lloyd Thompson Group is also a major provider of employee benefits administration services and related consultancy advice.

Jardine Lloyd Thompson Group is quoted on the London Stock Exchange and is the largest European-headquartered company providing these services and is one of the largest firms of its type in the world. It operates out of more than 100 offices in over 30 countries and employs more than 5000 personnel.

About Pension Capital Strategies

Pension Capital Strategies (PCS) was established in 2006 to help companies to manage their Defined Benefit pension obligations, offering expert advice on managing scheme assets and liabilities, on communication with trustees and on finding the right funding solutions. Pension Capital Strategies Limited is authorised and regulated by the Financial Services Authority.

A subsidiary of the Jardine Lloyd Thompson Group, PCS can draw upon skills and experience in the areas of corporate finance, tax, capital markets, asset management, actuarial and general pension regulation and practice to provide strategic advice and practical answers.