



# Guardian Pension Consultants

Providing Pension Trustee & Administration  
Services for Self-Administered Pensions

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Your Ref: GWF/Harlequin

08 November 2013

Dear Sir

## Re: Harlequin Investor Trust

I have been forwarded a copy of your letter to Harlequin investors dated 28 October 2013, outlining your proposal to create an Investor Trust. I have a number of questions, for which I should appreciate your reply.

### 1. Data Protection

Your letter was sent to *'..... all investors who have contracts with Harlequin Property ....'*. Can you please confirm how investor addresses were obtained and can you please confirm that there have been no Data Protection breaches regarding the issue of these letters. If there have been Data Protection breaches, how does this impact on the validity of any client instructions that have been received as a direct result of your letter?

### 2. Trust

Will the settlors and the beneficiaries be the investors? Who will be the trustees? What will be the precise terms of the trust?

### 3. Settlement

What precisely will be the assets of the trust? Will the trust take over the contracts held by the Investors?

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#### 4. Right to action

Will the trust hold on behalf of the investors the right to take action for breach of contract? Will the trust then give up this right if and when third party funding is obtained?

#### 5. Third party funding

What reason have you got to believe that third party funding will be available? Are you aware of any expressions of interest from potential funders?

#### 6. Assets

Why do you think that third party funding would achieve greater benefit for the investors than simply selling the residual assets?

#### 7. Contract to debt

Are you in effect proposing that investors give up their contractual rights in exchange for a single debt, with security as charge over the sites? If so, have the various Harlequin companies agreed to this in principle? What would be the size of the debt?

#### 8. Preferential position

Do you believe that the Investor Trust, by means of the charge, would gain some kind of preferential position over other creditors, including investors who do not join the trust? If so, on what grounds do you believe that the Harlequin companies could lawfully give one group of creditors, namely the investors joining the trust, this preferential position?

#### 9. Non-joiners

Is it the case that the trust proposal will only work if all the investors join? If so, will you, in the event of your failing to reach this target, return the £200 (+ VAT) fee to all those investors who do seek to join?

#### 10. SIPP operators

Since the trust arrangement appears to involve a change in the nature of the asset the investor holds, do you believe that, where the asset is held in a SIPP, the SIPP operator must sanction this

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change? If so, what will you do in the event of a member paying the £200 (+ VAT) fee, and the SIPP operator subsequently refusing to sanction the change?

I look forward to your reply.

Yours faithfully

Kathryn Taylor  
Managing Director

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