

# Pensions

*making...enhanced transfers...easier*

a "making it easier" guide to pensions law for trustees and employers

## Introduction

Many companies which have a final salary pension scheme are looking at ways to reduce the financial risks. One option is to offer members who have left the company a financial incentive to transfer their pensions out of the scheme. The incentive could either be a cash payment to the member or an enhanced transfer amount. Both would usually be funded by the employer. Any cash payment made to the member would be taxed.

## 10 steps to successful enhanced transfers

1. The company should check the **scheme rules** to ensure that there is a power to offer more than the standard transfer value payment. The consent of the trustees may be required.
2. A key decision for the company is **what incentive** to offer members to encourage them to transfer out. The company should seek advice to ensure that the likely savings outweigh the costs involved in making the offer. The agreed basis for enhancement should be applied consistently to all members receiving the offer.
3. Although the company is usually the one making the offer, it will need to involve the trustees from the outset. Even if trustee consent is not required, the company will need to ask the trustees for **members' contact information and details of their benefits**. Trustees need to decide whether to release this information.
4. The trustees should ask the company for details of any proposed offer, including the reasons behind the offer. The Regulator expects trustees to **take an active role** in any incentive exercise. It wants them to start from the presumption that the offer is not in most members' interests and it is likely that only a minority will benefit from accepting an offer. The Regulator wants trustees to be willing to challenge the appropriateness of the offer. Trustees will probably need to take legal and financial advice.
5. Trustees and employers need to manage any **conflicts of interest** that they have. These could include a trustee also being a director or a shareholder of the employer. Any adviser conflicts of interest should also be considered.
6. Before writing to members with an offer, the company should **check that the data which it holds on members is accurate and up to date**. This should increase the likely level of take-up.

Pensions law can be tricky... but it doesn't have to be. These 'making it easier' guides explain key issues in simple terms, giving practical help to trustees and employers.

The series is growing; additional copies can be downloaded from [www.pinsentmasons.com/pensions](http://www.pinsentmasons.com/pensions)

Current topics include:

- Scheme changes
- Death Benefits
- Using Advisers

Comments and ideas for further topics are welcome...

e-mail [stephen.scholefield@pinsentmasons.com](mailto:stephen.scholefield@pinsentmasons.com)

7. **Communication with members must be clear** and not misleading to ensure that members can make an informed decision. The Regulator has issued guidance about what information it thinks should be included when writing to members. The trustees will want to check any communications which are sent out.
8. The Regulator's guidance states that, unless the employer is confident that members have the ability to understand the structure and implications of the offer, then it should require members to take advantage of **independent financial advice paid for by the employer**. This advice should be promoted in the strongest possible terms. The Regulator wants the process for selecting advisers and the basis of advisers' remuneration to be clearly articulated.
9. The company should **give members plenty of time** to make a decision, and not subject them to any undue pressure.
10. Remember that **project management** is key to implementing a successful offer, as there are likely to be a number of advisers involved as well as the trustees.

### **Further reading**

The Pensions Regulator has issued [guidance](#) in respect of transfer incentives:

© Pinsent Masons LLP 2011

Should you have any questions please contact your usual Pinsent Masons adviser who will be able to assist you further.

This note does not constitute legal advice. Specific legal advice should be taken before acting on any of the topics covered.

LONDON DUBAI BEIJING SHANGHAI HONG KONG SINGAPORE  
OTHER UK LOCATIONS: BIRMINGHAM BRISTOL EDINBURGH GLASGOW LEEDS MANCHESTER  
T 0845 300 32 32

Pinsent Masons LLP is a limited liability partnership registered in England & Wales (registered number: OC333653) and regulated by the Solicitors Regulation Authority. The word 'partner', used in relation to the LLP, refers to a member of the LLP or an employee or consultant of the LLP or any affiliated firm who is a lawyer with equivalent standing and qualifications. A list of the members of the LLP, and of those non-members who are designated as partners, is displayed at the LLP's registered office: 30 Crown Place, London EC2A 4ES, United Kingdom. We use 'Pinsent Masons' to refer to Pinsent Masons LLP and affiliated entities that practise under the name 'Pinsent Masons' or a name that incorporates those words. Reference to 'Pinsent Masons' is to Pinsent Masons LLP and/or one or more of those affiliated entities as the context requires. Further information about us is available at [www.pinsentmasons.com](http://www.pinsentmasons.com)



**Pinsent Masons**

[www.pinsentmasons.com](http://www.pinsentmasons.com)