

Making consultation easier

May 2016

Introduction

Employers who want to make significant changes to their pension arrangements going forward (both occupational and personal pensions) must consult with affected employees and their representatives. No change can be made to the scheme until this consultation has been carried out.

10 steps to successful consultations

1. Only employers with **over 50 employees** need consult. The Government considers it best practice for **smaller employers** to do so as well.
2. Employers must **consult active and prospective members** affected by the proposed change. Prospective members include anyone able to join the scheme with employer consent and those who can join at the end of a waiting period. It is not always obvious which employees are affected, as sometimes employees are affected indirectly by a proposed change. Employers should consider this carefully.
3. If there is **more than one employer in the pension scheme**, the employer who has suggested the change must let the other employers know. Any employer with an affected employee must then consult. Employers should give any responses to the employer who proposed the change or alternatively confirm that they have not received any responses.
4. Employers also need to **consult any representatives of the affected employees, such as recognised trade unions or representatives** appointed under the Information and Consultation of Employees requirements. Where there are no suitable representatives, pension specific representatives will need to be elected.
5. The type of **changes on which employers need to consult** include:
 - closing the scheme or stopping accrual
 - replacing defined benefits with money purchase benefits
 - increasing member contributions
 - changing the basis for working out how future benefits are built up.
6. Consultation should usually last for **at least 60 days**. Employers need to take this into account when planning future changes.
7. Employers must **explain the proposed change to affected employees clearly in writing** so that they and their representatives can comment on the proposal. The explanation should include details of the proposal, its effect on members and when the change will be made. The Government expects employers to give members an illustrative worked example.
8. The employer who proposed the change must **consider all the responses** it receives. This should be documented.
9. Trustees should **check whether employees have been consulted** before agreeing to any amendment.
10. The Regulator can impose a **fine of up to £50,000** on employers who do not comply. The **amendment will still be valid** even if a fine is imposed.

However, employers do not need to consult if they simply want to change the provider of their group personal pension or stakeholder pension scheme.

Continued on next page >

Making consultation easier

May 2016

Further reading

ACAS has published a [booklet](#) for employers which aims to help them comply with their obligations.

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
<http://www.pinsentmasons.com/en/expertise/services/pensions/publications/>

Current topics include: Employer covenants; Overpayments and Employer debt

Comments and ideas for further topics are welcome...

stephen.scholefield@pinsentmasons.com



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

Pinsent Masons LLP is a limited liability partnership registered in England & Wales (registered number: OC333653) authorised and regulated by the Solicitors Regulation Authority and the appropriate regulatory body in the other jurisdictions in which it operates. 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 of equivalent standing. 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, its subsidiaries and any affiliates which it or its partners operate as separate businesses for regulatory or other reasons. Reference to 'Pinsent Masons' is to Pinsent Masons LLP and/or one or more of those subsidiaries or affiliates as the context requires.

© Pinsent Masons LLP 2016.

For a full list of our locations around the globe please visit our websites: www.pinsentmasons.com and www.Out-Law.com.