

Making scheme changes easier

May 2016

Introduction

Pension schemes have been around for a long time, so it's not surprising that they are sometimes changed. Some changes introduce a different way of calculating benefits or contributions. Others are designed to reflect changes in the law, such as changes in the tax laws or new age discrimination laws. Whatever the reason, it is important that all changes are made properly, or else they might be invalid.

10 steps to successful scheme changes

1. The procedure for changing your scheme will be set out in the **scheme rules**. This must be followed. For example, if it says you need a deed to change the scheme, you must have a deed.
2. The most common procedure requires **the agreement of the employer and the trustees** to the change. Where the trustees' agreement is required, they must consider the impact of the change on the scheme members.
3. Changes cannot reduce **benefits which have already been earned**, unless the members affected by the change consent to this.
4. Some schemes are more restrictive, and also prohibit any change to **future benefits** – although this is rare. More commonly, schemes sometimes prevent certain types of change. Each scheme is different, so it is important to check what your scheme says.
5. Where an employer is proposing a benefit change, any **conflicts of interest** for the trustees should be considered. For example, do they owe duties to the employer, or are they members of the scheme? Conflicts of interest for advisers should also be considered.
6. It is usually necessary to **consult with the affected members** before making significant benefit changes. This involves explaining the changes to members, and listening to their concerns. Consultation should usually last for at least 60 days.
7. **Employment contracts** should also be checked, to ensure that changing the scheme does not breach these. Often, employment contracts are loosely worded, and allow the scheme to be changed without the member's agreement.
8. Some rule changes need a **statement from the scheme actuary**, for example if they adversely affect rights members have already earned. This should be considered at an early stage.
9. **If a scheme cannot be changed** in the way that is desired, for example because the scheme prohibits a certain type of change, it may be possible to achieve the same result in other ways. For example, it may be possible to agree a change directly with the members. This is complicated, and changes are usually only made this way as a last resort.
10. If the change involves **members ceasing to earn benefits**, it is important to check that this will not result in the scheme being wound up.

Continued on next page >

Making scheme changes easier

May 2016

Further reading

Take a look at the Pensions Regulator's [statement](#) about consulting with scheme members about changes, and its [guide to changes](#) affecting benefits which have already been earned.

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

Current topics include: Using advisers; Scheme changes and Becoming a trustee

Comments and ideas for further topics are welcome...

Email: [Stephen Scholefield](mailto: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.