

Making scheme closure easier

May 2016

Introduction

Employers with final salary pension schemes are increasingly looking for ways to reduce their exposure to onerous pension liabilities. Many schemes are already closed to new joiners but more and more companies are looking at closing schemes to existing members so that no more benefits can be earned under the scheme (also known as "ceasing future accrual").

10 steps to closing your scheme

1. There must be a **legal power to close the scheme**. There may be a power in the scheme's trust deed and rules but employers should also check the terms of the members' employment contracts, the scheme booklet and member announcements to ensure there are no obstacles.
2. Some scheme rules allow for **closure by notice to members**. If the rules permit this, it is often the simplest way to close the scheme to future accrual but the precise wording of the rule must be followed.
3. In other cases, **schemes can be closed by rule amendment**. Again, the precise wording of the rule must be followed and often scheme amendments require the consent of the trustees as well as the employer.
4. Employers should be prepared to **demonstrate the business need for the scheme closure**. Trustees are obliged to examine the commercial and financial reasons for closure and may want to explore alternatives with the employer. They will need to be assured that the pension obligations will be met in the long term.
5. Even though a scheme has been closed to future accrual, in some cases members may still retain a **link to final salary**. This means that although they do not build up future benefits in the scheme, the pension benefit they eventually receive will be based on their salary at the date they leave employment with the employer, rather than their salary at the date of the scheme closure.
6. If the scheme rules make scheme closure difficult or if the employer wants to break the final salary link then it may be possible to **make the change by agreeing it directly with the members**, usually by amending the contract of employment. This can be complicated and employment law advice will usually be required. Clear communication with the members is essential as members must give fully informed consent for the changes to be enforceable.
7. Whichever closure method is used, check the scheme rules carefully to ensure there are no unintended consequences of the closure. Ceasing accrual **may trigger a winding-up of the scheme** and therefore a debt on the employer.
8. Most employers with over 50 employees must **consult with their employees for at least 60 days** before implementing any final salary scheme closure proposal.
9. Although a scheme may be closed to future accrual, there are still **costs associated with closed schemes**. In particular, the scheme actuary may recommend a higher employer contribution rate if he considers that any scheme funding deficit should be made good over a shorter period. The employer may want to take actuarial advice about the funding implications of ceasing future accrual.
10. Trustees should **review the existing investment strategy** if future accrual is to cease. More prudent investments may be appropriate for a closed scheme where there are no member contributions coming in and no new members joining.

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Further reading

[Guidance](#) for employers needing to consult with their workforce is available from the Government website, Business Link.

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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...

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

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