

Making incentive exercises easier

May 2016

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. This would usually be funded by the employer.

There is now a voluntary code of good practice on pensions incentive exercises for employers and advisers. The Pensions Regulator has also updated its guidance for trustees.

10 steps to successful incentive exercises

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 code of good practice forbids cash incentives that are contingent on the member accepting the offer. 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. Trustees should approach exercises cautiously and ensure they understand all their legal duties. They should be willing to challenge the appropriateness of the offer. They should also consider the impact on scheme funding. 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. **Communication with members must be fair, clear, unbiased and straightforward** to ensure that members can make an informed decision. The code of practice specifies certain information that must be included. The trustees will want to check any communications that are sent out.
7. Either **advice or guidance should be provided to members** (depending upon the type of incentive offer being made). Advisers need to be suitably qualified and independent. The employer should pay for the advice. Remuneration must not be related to take-up rates or involve commission. Incentives should only be offered to **members over 80** on an opt-in basis – by sending an initial short letter advising them that they will not be contacted again unless they ask for a full offer pack. Advisers should follow appropriate policies when dealing with members who may be particularly vulnerable on grounds of age, health and understanding etc.
8. The company should **give members plenty of time** to make a decision, and not subject them to any undue pressure.
9. Remember that **project management is key** to implementing a successful offer since there are likely to be a number of advisers involved as well as the employers and trustees.
10. []

Continued on next page >

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Further reading

The code of good practice for incentive exercises can be found [here](#).

The Pensions Regulator has also issued [guidance](#).

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...

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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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