

Partial transfers

Matthew Swynnerton explains the issues trustees need to consider when offering a partial transfer

It is likely that trustees will see an increase in enquiries from members considering how they might take advantage of the new flexibilities announced in the Budget 2014. Schemes that have not yet decided to offer the new flexibilities may consider offering more flexible transfers of benefits to other arrangements.

While members have always held the right to request a transfer out of their benefits, many schemes only provide transfers on the basis of a single transaction that results in no benefits being retained in the scheme. This presents a problem for members who wish to deal with the separate elements of their benefits differently, particularly members of DB schemes with money purchase benefits relating to AVCs or membership of a DC section. These members may wish to apply the new flexibilities to the money purchase elements of their benefits whilst retaining their final salary benefits in the scheme.

A possible solution may therefore be to allow partial transfers, so that members may request a transfer of one element of their benefits to another arrangement with their remaining benefits being left in the original scheme. However, whether trustees are currently able to provide such partial transfers depends on their scheme's rules and, unless express provision is already made for partial transfers, it is likely an amendment will be required to introduce this power.

Defining the scope

If a new partial transfer rule is required, trustees should first discuss the scope of its application. As members do not have

a right to a partial transfer, it is possible to draft the rule as widely or as restrictively as the trustees (and, potentially, the principal employer) wish. It would be possible to limit the rule to a particular class of member or provide that only one type of benefit (such as money purchase AVCs) may be transferred.

Questions trustees may wish to consider when establishing the scope of this rule include:

- Should members have an automatic right to request a partial transfer, or should it be discretionary?
- Which members should be allowed to request a partial transfer?
- Should there be any restriction on the type of benefits that may be transferred?
- If active members are eligible to make a partial transfer, should they be allowed to remain in pensionable service after the transfer?

In addition to the scoping requirements, there are a number of other practical issues the trustees should consider:

Final salary benefits, funding implications and risk discharge

If the partial transfer of final salary benefits is to be permitted, trustees should decide how these benefits will be calculated and whether a reduction should be applied to reflect any underfunding in the scheme.

Additionally, since there is no statutory discharge available in respect of partial transfers (as exists for CETVs), an express discharge provision should be included. This applies equally to DC schemes.

Other safeguards, such as making partial transfers of final salary benefits also subject to the consent of the trustees and the principal employer, may also be considered as a way to limit a scheme's exposure to reduced funding limits as a result of multiple transfer requests.

Practical application

How the rule works in conjunction with the other provisions of the scheme rules and whether further amendments will be necessary should be considered (for example, by ensuring any eligibility requirements are not compromised where a member is able to request a partial transfer without ceasing pensionable service).

Administration

It may also be useful to liaise with the scheme's administrators and actuary when determining the scope of a new partial transfer rule to ensure that it will not create an administrative burden and that the administrators are prepared for such requests.

Authorised payments

All partial transfers must be 'recognised transfers' for the purposes of the Finance Act 2004. This generally means that transfers must be made to registered pension schemes or QROPS.

Given that new partial transfer rules are likely to require an amendment to the scheme rules, trustees should discuss the issue with their legal advisers to ensure that any such change to their rules is effective and reflects their intentions.



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