



Trustee Challenges & Issues

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Agenda

- Some Aspects of Managing Member Engagement
 - Deferred Members
 - Death-in-Service Issues
- Evaluating Trustee Personal Risk

Some Aspects of Managing Member Engagement



Some Aspects of Managing Member Engagement



Some Aspects of Managing Member Engagement

– Deferred Members

- Why do Trustees feel the need to manage deferred members?
- Transfers Out
 - Non Preserved Benefits: what do the Rules say?
 - Preserved Benefits:
 - Value less than €10,000 on date of transfer; **OR**
 - Pensions Board approves (rare);
and certain conditions are met....

Some Aspects of Managing Member Engagement

– Deferred Members

- (With member consent) recipient vehicles include:
 - Funded schemes
 - Unfunded schemes (with trustee consent)
 - Overseas arrangements (S.I. 716/2003)

Some Aspects of Managing Member Engagement

– Deferred Members

- Regular item on the Trustee agenda to consider status of deferred members
- Member communication materials request address updates
- Employer engagement to encourage transfers out
 - Revise early leaver rule?
- Is this enough?
 - Enable (taxed) early withdrawal of preserved benefit?

Some Aspects of Managing Member Engagement

– Death-in-Service Issues

- Selection of recipients of lump sum
 - Earle v Michelin Pension Trust (2012)
 - Evidence of member's wishes
 - Establish degree of dependency between deceased and potential beneficiary
 - Establish financial position of potential beneficiary

Some Aspects of Managing Member Engagement – Death-in-Service Issues

- Selection of recipients of lump sum
 - Case 16/2009 (Two Sisters)
 - Employer established factual position
 - Employer was seen to have taken due consideration of the facts

Some Aspects of Managing Member Engagement

– Death-in-Service Issues

- Selection of recipients of lump sum
 - 2008 PO Decision (50/50 deceased's mother and daughter)
 - Procedurally correct
 - Trustees entitled to assume co-dependency
 - Trustees had no obligation to consult the surviving parent of the daughter

Some Aspects of Managing Member Engagement

– Death-in-Service Issues

Value of Benefit

- Delay in Paying Death Benefit (Case 21/2010)
 - Date of death 25 Dec 2007
 - Employer notified of death Jan 2007 – **value €148,000**
 - Benefit Statement Aug 2007 – **value €136,000**
 - Grant of Probate submitted Mar 2009
 - Cheque issued Apr 2009 – **value €105,000**
 - IDR upholds status quo
 - Complaint to PO - settles for value at Jan 2007...

Some Aspects of Managing Member Engagement

– Death-in-Service Issues

What can we learn from the above?

- Check and follow the rules closely
- Take steps to protect the value of the benefits from dropping in value
- Follow proper procedures
- Establish
 - Evidence of member's wishes (if any)
 - Degree of dependency between the deceased and the potential beneficiaries
 - Financial position of potential beneficiaries
 - Other relevant issues, e.g. Foster Children

Some Aspects of Managing Member Engagement



Evaluating Trustee Personal Risk



Evaluating Trustee Personal Risk

Statutory Protections (*last port of call*)

Including...

Section 19 Social Welfare & Pensions Act 2009

- where a trustee is or may be liable in respect of a breach of trust but acted honestly and reasonably and in the circumstances he ought fairly to be excused for the breach the Court may relieve him on such terms it deems appropriate...

Evaluating Trustee Personal Risk

Other Protections (*first port of call*)

- Are you incorporated?
- Do you know what protections, if any, you have under your Scheme documents?

Evaluating Trustee Personal Risk

What possible steps could you now take to protect yourself, bearing in mind conflicts of interest?

- Obtain a separate indemnity from the Employer?
- Incorporate?
- Amend Scheme documents?
- Avail of insurance (if authorised)?



Thank You
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