

Employer Consultation Guidance Notes



SFHA Pension Scheme



Administered by
The Pensions Trust

Employer Consultation Guidance Notes



Introduction

During Summer 2010, the SFHA Pensions Committee undertook a consultation exercise with all employers participating in the SFHA Pension Scheme (the Scheme) which set out the provisional results of the 30 September 2009 triennial valuation and sought employers' views on the initial proposed changes to Scheme benefits.

Employer Forums were held during June 2010 to assist in gauging the opinions and concerns of employers.

The Pensions Committee has considered all of the employers' responses and, as a result, from 1 April 2011 each employer within the Scheme will have an extended choice of benefit options to offer to their employees.

A letter outlining the outcome of the review was sent to employers on 24 September 2010. The next stage of the benefit review is to present the benefit options and contribution rates in detail to employers, enabling them to consult with their employees to determine which benefit options should be adopted for pensionable service from 1 April 2011.

It is important to stress that any benefits built up by members in the Scheme before the date of any future change cannot be reduced. Any changes made will apply to benefits provided from 1 April 2011.

Deferred and retired members

Deferred and retired members of the Scheme are not affected by this review and the changes being introduced in 2011.

Benefit options

From April 2011, each employer will have an extended range of benefit options and flexibility to offer more than one 'open' option to employees. There will be five benefit options:

- the existing Final Salary option with a 1/60th accrual;
- the existing Career Average Revalued Earnings (CARE) option with a 1/60th accrual;
- the existing CARE option with a 1/70th accrual;
- a new CARE option with a 1/80th accrual; and
- a new CARE option with a 1/120th accrual.

All of the benefit options have been designed to meet the quality requirements for 'qualifying scheme' status for the workplace pension reforms due to be introduced from 2012.

A 'Key Features' leaflet for each benefit option is available to download from the Scheme's website at www.sfhaps.org.uk (a link to the consultation documents is available from the homepage) together with tables providing details, on a comparative basis, of the pensions which members would earn under the Final Salary and CARE benefit options.

Benefit options in practice

There will be five benefit options to choose from however, there are some restrictions on how employers can use these. The following definitions may assist employers in understanding the choices available:

- An 'open' benefit option is a benefit option that is offered to current and new members.
- A 'live' benefit option is a benefit option which continues to have members contributing to it and building up benefits but is not offered to new members.
- Employers may offer one 'open' default benefit option to new members plus, if they wish, they may offer the 'live' benefit options as alternative 'open' benefit options that members can choose to participate in. For example, CARE 70ths may be the default option and members may be able to choose to participate in CARE 60ths or Final Salary 60ths, as these are 'live' benefit options.
- If an employer does select alternative 'open' benefit options, then the member will be required to pay the difference in the employer's default 'open' benefit option contribution rate and the alternative 'open' benefit option that they have chosen to participate in.
- Employers may continue to operate different 'live' benefit options for current members. If an employer currently operates different benefit options for its current and new members, those benefit options could be maintained.

The full range of benefit options from 2011 is shown in the table below:

Member Group	Current Benefit Option	Options from April 2011 or later
Existing members as at 31 March 2011	One of Final Salary 60ths, CARE 60ths or CARE 70ths on either an 'open' or 'live' basis.	<ol style="list-style-type: none"> 1) Continue with existing 'open' benefit option prior to 1 April 2011. 2) Move to the 'open' default benefit option offered for new members (if different). 3) Move to an alternative 'open' benefit option offered by their employer (if applicable).
New members (including existing employees who are not currently members of the Scheme)		<ol style="list-style-type: none"> 1) Join the existing 'open' default benefit option. 2) Join an alternative 'open' benefit option offered by their employer (if applicable).

Example

If an employer presently offers Final Salary 60ths accrual for existing members at 31 March 2011 and CARE 80ths as its default option for new members from 1 April 2011, then this employer could also elect to offer the Final Salary 60ths benefit option as an alternative 'open' benefit option to new members.

Current and new members – switching options

If an employer decides to retain a Final Salary 60ths, CARE 60ths or CARE 70ths benefit option for existing members, but adopts an alternative CARE benefit option as its default option for new members, then some existing members may wish to change from their existing benefit option to the new default benefit option. The reason for making this change would normally be the lower members' contribution rate in the new benefit option.

An existing member can make this type of change. However, it is strongly recommended that a member considering such a change should be encouraged to seek independent financial advice before making a final decision. (Please note that neither The Pensions Trust nor the Pensions Committee are authorised to give financial advice to members.).

Contribution rates

The total (employer and member) contribution rate payable to the Scheme is made up of various components and includes the future service rate, the past service rate and, if appropriate, an employer loading. Details of the revised rates are as follows:

Future service contribution rate

The future service rate is the cost of providing future benefits. The total (employer and member) rates to be applied for future service from 1 April 2011, expressed as a percentage of pensionable salaries, are:

Benefit Option	Total Future Service Rate (%)
Final Salary benefit option with 1/60th accrual	19.2
CARE benefit option with 1/60th accrual	17.1
CARE benefit option with 1/70th accrual	14.9
CARE benefit option with 1/80th accrual	13.2
CARE benefit option with 1/120th accrual	9.4

The share of these contributions will be split 50:50 between employer and member across all benefit options, though employers will be able to pay a greater proportion if they wish.

Past service rate

The provisional results of the actuarial valuation (see 'Appendix A - Actuarial Valuation Results' for a summary) reveal that the Scheme had a deficit of £160.1million as at 30 September 2009. The deficit at the previous valuation in 2006 was £53.5million.

Following consultation with employers, the Pensions Committee reconsidered the approach to deficit recovery and it has decided to express the past service deficit contribution as a monetary amount equal to 10.4% of the pensionable payroll for each employer at 30 September 2009 (the valuation date), increasing by 4.5% each year. The 4.5% increase reflects the future earnings increase assumption used by the Scheme Actuary in the valuation.

The existing past service deficit contribution rate of 5.3% of pensionable salaries will continue to be payable by the organisations participating in the Scheme until 31 March 2011.

If the valuation assumptions are borne out in the future, this contribution will eliminate the deficit over 13.5 years, by 30 September 2024. The Pensions Committee will be preparing a 'recovery plan' to reflect this.

Each organisation will be notified annually of its past service contribution as a monetary amount, and this will be collected monthly in addition to the future service rate and any loading. Changes will be made from 1 April each year.

Combined contribution rates

The contribution rates, expressed as a percentage of pensionable salaries, required to fund the total past and future service costs of the existing benefit options with effect from April 2011, are set out below:

Benefit Option	Contribution Rate		
	Future service expressed as a % of actual pensionable salary	Past service expressed as a % of notional pensionable salary	Total
Final Salary benefit option on a 1/60th accrual	19.2	10.4	29.6
CARE benefit option on a 1/60th accrual	17.1	10.4	27.5
CARE benefit option on a 1/70th accrual	14.9	10.4	25.3
CARE benefit option on a 1/80th accrual	13.2	10.4	23.6
CARE benefit option on a 1/120th accrual	9.4	10.4	19.8

Notional pensionable salary is pensionable salary as at 30 September 2009 indexed annually in line with the salary growth assumption in the valuation and does not alter to account for leavers or new joiners.

Employer loading

At present, employers not offering the Scheme to new members pay a loading to recognise that the average age of their Scheme members will increase more quickly than for an employer continuing to offer the Scheme to all new employees. This loading is currently 3.5% of pensionable salaries.

The loading rate has been reviewed by the Scheme Actuary and is to be maintained at 3.5%. It will be applied to the future service contribution rate.

Accounting disclosures

Some employers may ask whether the multi-employer exemption from full implementation of the accounting standard FRS17 will be affected by the new approach to collecting deficit contributions.

Having consulted a leading firm of auditors in the housing association sector, our view is that the proposed change in methodology for calculating deficit contributions from April 2011 does not alter the substance of the previous calculation, and does not in itself require any change in the basis of pension accounting within the financial statements of sponsoring employers.

The decision as to whether to take the exemption available remains a matter for employers to agree with their own auditors.

Consultation with employees

Statutory consultation may be required if employers are going to change the accrual rate (for example from Final Salary to CARE) and/or the member contribution rate with effect from April 2011.

Whether or not there is a statutory requirement, consultation is good practice and may be required as part of an employer's 'duty of mutual trust and confidence'. All employers are therefore recommended to undertake some form of appropriate consultation.

The Pensions Committee cannot undertake the consultation work on behalf of employers, nor are they, or The Pensions Trust, able to give advice. It is therefore necessary for employers to set in place a consultation process in line with their own established procedures. Consultation may involve trade unions, works councils and employee representative groups as appropriate.

Why might consultation be required?

If your organisation is considering making a 'listed change' (see below) to the benefit options being offered under the Scheme, then you may be required to consult with employees affected by this change – either because of your organisation's own requirements, or because of the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006 (as amended) and the Occupational and Personal Pension Schemes (Consultation by Employers) (Modification for Multi-employer Schemes) Regulations 2006 (the Regulations).

The Department for Work and Pensions (DWP) has published guidance on the Regulations. A copy is available on the Scheme's website at www.sfhaps.org.uk (a link to the consultation documents is available from the homepage) or on the DWP's website at www.dwp.gov.uk/publications/dwp/2005/occ_pen_schemes/occ_personal_pens_schemes_regs06.pdf

Listed changes

The Regulations and the DWP guidance specify the changes which trigger the requirement to provide information and to consult.

The listed changes most likely to be relevant to the Scheme's employers include:

- Increasing member contributions.
- Reducing the rate of future accrual of benefits to some or all members (e.g. from CARE 60ths to CARE 80ths).
- Changing the basis for determining future accruals (e.g. from Final Salary 60ths to CARE 60ths).

There may be very few employers considering making the following listed changes:

- Closing the Scheme to some or all new members (but active members will remain in the Scheme).
- Stopping future accruals in the Scheme to some or all members.

Pre consultation stage

Employers will need to determine, in accordance with their procedures, the approach to benefit options and contribution rates which they intend to take.

If consultation with employees is to be meaningful, then specific benefit options cannot be predetermined. However, the areas of benefits on which the employer wishes to consult, and particularly any proposed changes, should be clearly set out for employees.

The timetable for consultation should tie in with your organisation's Committee or Board meeting timetable, to allow approval of final benefit options in time for notification to The Pensions Trust by the required date of 28 February 2011.

Contractual position

If a 'listed change' to the Scheme is contemplated, it is important that you assess the position carefully. Your organisation may or may not have statutory obligations (see 'Why might consultation be required?'), however, there may be obligations under internal procedures, or governance arrangements, relating to employees' Terms and Conditions of Employment (in particular with the provision of, and changes to, pensions and related benefits) and/or the conduct of consultation.

Please take legal advice if you are in any doubt about the contractual position. Before entering into any consultation process, employers should assess their position in relation to employees' Terms and Conditions of Employment, to their organisation's governance arrangements and to legislation.

Does my organisation need to consult?

There is no statutory obligation to consult for employers having fewer than 50 employees though your organisation's governance requirements or your employees' Terms and Conditions of Employment may require some form of non-statutory consultation.

If you have 50 or more employees, then you must consult with 'affected members' and/or their representatives – see below.

Do we have 50 or more employees?

If your organisation has never employed 50 or more employees, then the position is clear. However, if your organisation employs some part-time employees, or has increased or decreased its workforce during the last 12 months, the position is less straightforward and another set of regulations comes into play. Regulation 4 of the Information and Consultation of Employees Regulations 2004 (Statutory Instrument 2004 no. 3426) specifies how the average number of employees must be calculated. The wording of Regulation 4 can be downloaded from the Scheme's website at www.sfhaps.org.uk (a link to the consultation documents is available from the homepage).

What is an 'affected member'?

'Affected members' are current members of the Scheme, plus all employees who are eligible (per their contract of employment) to join the Scheme if they wish to.

We have to consult – how do we do this?

Where there is more than one participating employer, the person or body proposing the change (in this case, the Pensions Committee) must give written notice to each employer. The letter issued in October 2010 gives this written notice.

Each employer with active or prospective members affected by the change (see above) must provide information to those members and their representatives, and consult those members or their representatives. The intention is that employees should fully understand their pension scheme and the effect that changes will have on it and their future pension provision.

The areas on which the employer wishes to consult should be established and clearly set out for employees.

Some employers may prefer to let employees choose what path the organisation should take. The employer would provide information and consult on this basis. In either case, if consultation is to be meaningful, then the outcome cannot be determined in advance.

Providing information

Before the consultation starts, employers must provide information in writing to all employees who are 'affected members' as defined above (that is, active or prospective members, but not deferred members or pensioners).

Employers must also provide the information to, and consult with, one or more of the following employee representatives:

- Representatives of an independent trade union recognised by the employer for collective bargaining.
- Any representatives elected or appointed by employees under the Information and Consultation of Employees Regulations 2004.
- Other representatives of active and prospective members who have been elected for the purposes of participation in any consultation.

Where no representative has been appointed, the employer must consult direct with the 'affected members'.

The information to be provided to the 'affected members' and their representatives must:

- Be in writing.
- Be provided before the consultation starts.
- Describe the proposed change and the effect, or likely effect, of the change on the Scheme and its members.
- Include any relevant background information.
- Indicate the timescale for implementing the change to the Scheme.
- Specify the date set for the end of the consultation or for the submission of written comments (this must be at least 60 days after the consultation starts).
- Be accessible in terms of format (a note on a payslip directing employees to an employee intranet is not acceptable if most employees do not have access to a PC at work) and content (plain English, no pensions jargon if possible) to enable the 'affected members' and their representatives to study the proposed change(s) and give their views to the employer on the impact on members.

Consultation material

Documents designed to assist employers, as they consider the benefit options available and then consult with their employees, are available to download from the Scheme's website at www.sfhaps.org.uk (a link to the consultation documents is available from the homepage). The documents available are:

- **Important Information for Members** - An information leaflet for members on the current review and developments within the Scheme. The leaflet is available to download from the Scheme's website (www.sfhaps.org.uk). As the leaflet meets some of the requirement to 'provide information' as part of a consultation process, you may wish to make reference to it in your consultation material.
- **Consultation Template** - The template outlines areas which need to be included and provides a framework to help you draft your consultation documents. Used together, these two documents will help employers to comply with the statutory requirement to 'provide information'.
- **Key Features and Benefit Comparison Tables** - Information sheets outlining the different benefit options have been prepared together with tables providing details, on a comparative basis, of the pensions which members would earn under the Final Salary and CARE benefit options.
- **Employer FAQs** - This document covers some of the key areas employers may wish to consider prior to deciding which benefit options and contribution rate proposals to discuss with their employees.
- **Information and Consultation of Employees Regulations** - Extracted from the Information and Consultation Regulations, this document explains how employers can calculate whether they have had, on average, 50 or more full-time equivalent employees in the 12 months prior to consultation.
- **DWP Guidance on Consultation** - This is provided as a link to a DWP document which provides guidance on the consultation regulations and how to comply with their requirements.

House Policies and Rules (to follow)

The new benefit options will be introduced from 1 April 2011. A number of the proposed changes will require either new House Policies and Rules to be written or amendments to be made to the existing House Policies and Rules. The revised document will be available in April 2011.

Statutory consultation timescales

Statutory consultation will begin and end on the dates specified in the information provided (see above) – the process must last at least 60 days.

During consultation, the DWP expects the employer and those being consulted to work together in a spirit of co-operation. The DWP considers that consultation will include an exchange of views and dialogue between the parties (source – DWP guidance).

At the end of the 60-day period, the employer must consider any comments received before deciding whether or not to change the benefit option selected for employees' future pension provision. If no comments are received by the end of the period, the consultation is regarded as complete.

Non-statutory consultation timescales

Where governance arrangements or terms and conditions require non-statutory consultation, it is likely that the arrangements for consultation will be specified. If this is not the case, then employers may adapt the statutory process to suit. A minimum period of 30 days consultation would seem to be reasonable in these circumstances.

What happens next?

On completion of the consultation stage, and/or having considered employees' comments and representations, employers must decide whether to make any changes to the benefit option(s) offered to its employees under the Scheme. If your organisation will continue to offer the current benefit option(s) for both existing and new employees, please complete and return the 'Employer Form of Authority' which is available to download from the Scheme's website at www.sfhaps.org.uk (a link to the consultation documents is available from the homepage). If your organisation wishes to change the benefit option(s) for existing and/or new employees, please complete and return the 'Employer Form of Authority' which is available to download from the Scheme's website at www.sfhaps.org.uk.

What happens if we don't comply with the Regulations?

If an employer wants to change the benefit option(s) for existing and/or new employees and does not comply with the statutory requirements (if any) applicable to its particular circumstances, then 'affected members' or their representatives may complain to The Pensions Regulator. The employer may be fined up to £50,000.

If the Pensions Committee is aware that an employer has not complied with the Regulations, then it will be unable to authorise the change in the benefit option for existing and/or new employees.

Deadline for returning the 'Employer Form of Authority'

Employers are required to notify their chosen benefit options by no later than **28 February 2011**.

Please note that employers may choose to retain their existing benefit option(s), in which case confirmation of the employer and member contribution rate split will still be required as the Scheme has introduced the option for employers to pay more than 50% of the future service contribution rate.

An 'Employer Form of Authority' is available on the website (www.sfhaps.org.uk) and must be completed and returned by all employers, whether or not there is to be any change to their pension arrangements. The Form must be signed by the Chair and the Secretary of the employer.

Default position

If an employer does not return their 'Employer Form of Authority' by 28 February 2011 then a default position will apply to that employer. The default position will be that the employer will retain their existing benefit option(s) and any increase in the total contribution rate will be fully met by the employer, with the members' contribution rate being held at its present level.

Future changes to benefit and contribution options

It is recognised that employers must have regular opportunities to review and, as appropriate, change their benefit options.

After 1 April 2011, an employer will be permitted to change their benefit options offered from the 1 April each year, subject to confirmation that statutory consultation (if required) has taken place. Three months' notice of any change will be required in writing to The Pensions Trust.

Further assistance

We hope that the information provided in this and other documents associated with the review of Scheme benefits will enable employers to plan for April 2011 and to consult with employees if required. However, if further assistance is needed, sources of help are outlined below.

Telephone

A helpline is available to assist with queries relating to these Guidance Notes, the telephone number is **0113 394 2705**. Employers are requested to note that the helpline can provide more information or clarification on key areas within these Guidance Notes. However, the Pensions Committee and The Pensions Trust are not authorised to give advice to employers on the selection of their benefit options and funding arrangements. In these matters, employers should take independent professional advice.

Written enquiries

Any queries relating to the review should in the first instance be addressed to Susan Wardlaw at The Pensions Trust, Conference House, 152 Morrison Street, Edinburgh EH3 8EB or by email to sfha@thepensionstrust.org.uk.

'Face to face' assistance

Neither The Pensions Trust nor the Pensions Committee are able to give direct advice on an organisation's long-term pensions strategy. However, if employers wish to consider issues further, 'face to face' meetings can be arranged with representatives of The Pensions Trust. An organisation wishing to arrange a 'face to face' discussion should email sfha@thepensionstrust.org.uk.

Appendix A - Actuarial Valuation Results

The key assumptions and results of the 30 September 2009 triennial actuarial valuation, and a comparison with the 2006 valuation, are summarised below. A fuller report on the valuation results will be issued when the Scheme Actuary's report has been finalised.

Valuation assumptions

The principal financial assumptions underlying the three-yearly valuation are:

Valuation Date	30 September 2006 Nominal % p.a.	30 September 2009 Nominal % p.a.
Price inflation	2.6%	3.0%
Valuation discount rates		
- pre retirement	7.2%	7.4%
- non pensioner post retirement	4.9%	4.6%
- pensioner post retirement	4.9%	4.8%
Pensionable earnings growth	4.6%	4.5%
Pension increases		
- Pre 88 GMP	0.0%	0.0%
- Post 88 GMP	2.5%	2.4%
- Pre 06/04/05 accrued benefits (LPI 5%)	2.6%	2.9%
- Post 06/04/05 accrued benefits (LPI 2.5%)	2.25%	2.2%

In addition, latest mortality research, backed up by the Scheme's own experience has been taken into account.

Key valuation results

The provisional valuation results are:

	30 September 2006 £m	30 September 2009 £m
Market value of assets	268.4	294.6
Liabilities	321.9	454.7
Deficit	(53.5)	(160.1)
Funding level (assets/liabilities)	83.4%	64.8%

During the past three years, since the last triennial valuation, the major factors influencing the performance of the fund and their contribution to the deficit shown above were:

- Investment underperformance (shortfall £75.5million).
- Mortality assumptions have been strengthened (shortfall £19.5million).
- Financial assumptions (shortfall £18.3million).
- Scheme experience on withdrawal (surplus £17.5million)

Notes

A series of horizontal dotted lines for taking notes.



Administered by
The Pensions Trust

Verity House, 6 Canal Wharf, Leeds LS11 5BQ
tel: 0113 394 2705 fax: 0113 234 5599

email: enquiries@thepensiontrust.org.uk
or visit www.thepensiontrust.org.uk
www.sfhaps.org.uk