

Employers: Pensions and employee benefit schemes in Guernsey

MAY 2017

Both employers and trustees have a duty to ensure that any pension or employee benefit scheme (set up by them for their employees or administered by them, as the case may be) is set up and run properly.

"I am an employer and I have paid a trustee to run the scheme for me. How the scheme is run is not my problem."

You may owe contractual duties to your employees to provide a particular pension scheme, on certain terms, and you will owe a duty of good faith to your employees in making that scheme available to them. Failure to comply with these duties is likely to result in a breach of contract, which could see you liable for damages and possibly an appearance in the Employment Tribunal (which of course also brings a reputational risk, as well as additional costs).

You are also likely to have indemnified the trustee of the scheme under the terms of the trust, or in a separate service provider agreement. A failing by the trustee may still leave you liable to reimburse the trustee for any losses (which could be significant if it is in breach of trust), depending on the scope of the limitations to the indemnity that you managed to negotiate and your role in any failings in the scheme.

You should keep in regular contact with the trustee to ensure that they are undertaking a regular review of the trust documents and are fully aware of any changes in your business which may affect the scheme. You should also ensure that your obligations under the scheme documentation (for example in terms of funding or the provision of information) are fully complied with.

"I don't actually have any pension or employee benefit arrangements for my employees."

You may not be obliged to provide one (check your employment contracts), but not providing one could put you at a competitive disadvantage if it is common for employers in your industry to offer a pension scheme of one kind or another.

"What are my contractual obligations to my employees?"

Our team of Employment specialists would be happy to review your employment contracts and advise you on your contractual obligations in respect of the provision of pensions and other employee benefits.

How Collas Crill can help

Existing schemes

We can undertake a 'health check' of an existing scheme, which is advisable if the scheme documents have not been reviewed or updated for some time, or if there have been any changes in the structure of the employer which may have

affected the scheme.

It is also advisable to have the documents reviewed and updated to take into account the new pensions regulations coming into force in Guernsey on 30 June 2017. Please click [here](#) for further information in respect of the new regulations and how they could affect you.

We will review the current trust documents and provide a short report on the headline issues and areas of risk. If we identify that documents need to be updated or replaced, or if you notify us of any particular concerns which have arisen but have not been resolved, we can then advise further on any steps that would be required to put matters right.

Our fees to carry out the initial 'health check' and provide such a report will be **£1,500** for any Guernsey scheme. We can provide separate fee estimates for preparing any updated documentation that is needed.

This flat fee does not include any time spent dealing with any specific concerns or issues on which advice is needed, for which we would also be happy to provide separate fee estimates or agree fixed fees. Such fees will depend on the nature and complexity of the particular concerns.

New schemes

We can also advise on setting up new schemes, whether occupational pension schemes or personal pension schemes (domestic or international) to provide benefits on retirement, or an employee benefit scheme to incentivise employees.

As each scheme will be bespoke, we provide fee estimates for advising on the new scheme and preparing documentation to set up the scheme on a case by case basis.

In the first instance, we would suggest that we have an initial meeting with you to discuss your requirements. This first meeting will be at no charge.

For more information please contact:



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