


Bulk Transfers and GN16

Considerations in scheme mergers


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Bulk Transfers and GN16:

Considerations in scheme mergers

- Professional Responsibilities – transfers without consent
- What does GN16 do and not do?
- Wider issues of scheme mergers
- War stories – share experiences


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Considerations in scheme mergers

- When are transfers without consent encountered?
- Sale/purchase - financial transaction between employers - consent for active
- If transferred, deferred and pensioners, without consent
- Mergers and rationalisations - same employment, or connected employer
- Possibly transfer all members without consent

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What does legislation say?

- Preservation regulations 1991 – Reg 12
- Trustees must obtain an actuarial certificate
- GN16 certificate signed
 - does enable Trustees to decide
 - does not give authority to transfer
- GN16 certificate not signed
 - does prevent transfer without consent

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What does legislation say?

- Preservation regulations 1991 – Reg 12
 - Trustees must obtain actuarial certificate
- Principle is to protect past service rights
 - includes protecting salary growth actives
- And take into account
 - spouse's/dependant's benefits
 - nature of benefit – DB or DC
- Established custom for discretionary benefits

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What does legislation say?

- What is extent of protection?
- Members rights - broadly no less favourable
- Discretionary benefits - Good cause to believe, broadly no less favourable
- Rights more valuable - consider in assessment of discretionary benefits
- So legislation says – rights to be bnlf

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What does bnlf mean?

- But bnlf not defined – judgement required
- GN16 - certificate can only be given if.....
- Benefits not materially inferior
- Value past service rights not less
- Value established discretions not less
-but higher value of past service rights counts
- No significant loss of security on winding up–
immediately after merger

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No significant loss of security

- Desirable for Reg 12 - security test?
- Members would expect this
- Policy intention to include security
- DWP issued amending Regs in 1997
- Problems - reversed Oct 1999



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No significant loss of security

- Difficult to define robust wind-up test
- Range of scenarios
- Impact of June 11 and PPF?
- Who assesses covenant of employer?
- Over what period – can't be guaranteed in future
- Security in Regs or a matter of judgement?




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Considerations in scheme mergers

- Trustees' role and responsibilities
- Act in Members' best interests
- Cannot just rely on GN16


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Considerations in scheme mergers

- Powers, ways and means
- Is there a better way?
- Who has the powers

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Considerations in scheme mergers

- Issues and snags
 - "Hard" issues
 - "Soft" issues
- Trustees obliged to negotiate

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Security and GN16

- Concluded - merger felt to be appropriate
- Benefits and value OK for GN16 certificate
- No discretions
- But what about security?

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No significant loss of security

- GN16 considers security at point of transfer
- Accrued rights
- Differences in winding up rules
- Financial strength of schemes
- Not financial strength of Employer(s)
- Benefits immediately after not materially less

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Security and GN16

- New priority order – ignore potential changes to align with PPF?
- Certificate valid max 3 months
- Different calculation if solvent or insolvent
- No account financial strength - only assets in scheme
- Can't rely on collecting debt anyway
- But leads to many scenarios being considered and problems

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Security and GN16 - Example

- Solvent to solvent – better
Insolvent to insolvent – better
- Insolvent to solvent – problem - why?
- MFR pension increases covered if insolvent
- Buy out pension inc. not covered if solvent
- Can't sign — priority order, no g'teed debt
- Same employer? – not insolvent and solvent
- Same employer and large number of employers? – possibly

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Security and GN16

- Difficult to define security test - range of scenarios
- Workable to have wind up test in legislation?
- Actuary's job to advise – professional judgement
- The Trustees also judgement – their decision
- Informed

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New GN16 – the way forward

- Being revised – expose end summer
- Taking legal advice and Counsel's opinion
- Root and branch review
- Certificate is not the driver
- Advice to Trustee that is important
- Watch this space

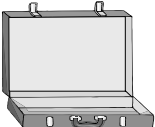


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War stories/case studies

- Priority
- Discretionary
- Your experiences?



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