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and Faculty  
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## Legal aspects of longevity risk transfers

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17 September 2013



### Is there power to do the transaction?

Which rule applies?

- Transfer rule?
- Investment power?
- Specific buy-in power?
- Winding-up rule?
- Is the rule broad enough? Is there sufficient flexibility?

Think about a rule amendment if there is any doubt

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## Getting data ready

Most schemes are in the process of reviewing data held, in light of tPR Guidance

- Consider which missing elements would impact on a longevity deal
- Review priorities?

Take advice – focus on the data which will make a difference (and be flexible)

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## Protecting data

Trustees will need to transfer data to obtain quotes

- Insurers/providers will need to transfer data to re-insurers

Trustees need to ensure compliance with data protection legislation

- Fair processing notice: requires notification to members of purpose for which data is used
- NDAs: purpose of data transfer; restrictions on use; confidentiality; timing
- Restrict data transfer to what is needed

Adopt a practical approach

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## Analyse the benefits

Trustees need to understand what benefits will be “covered”:

- All risks vs defined risks

Identify:

- What benefits are outside Rules?
- Scope of discretions and proposals to manage these
- Other benefit issues e.g. equalisation, underpins

Clarify benefit structure where appropriate

Understand:

- Interaction with Scheme discretions in an ongoing scheme (swap/buy in)
- Powers to vary the insured benefits (buy-out)

Early analysis can save time when transacting

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## Consider security

Choosing the provider

- The regulatory regime
- Protection on counterparty insolvency (e.g. collateral, FSCS)

Consider security options

- Collateral: type; frequency of posting; valuation
- Early termination events

Understand the “cost/benefit” analysis of any protections offered

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## Understand the legal document

Trustee “knowledge and understanding” requirements include a requirement to understand key contracts

The exclusivity agreement: understand who is locked into what!

The formal contract:

- Legal structure
- Risks transferred and risks retained
- Termination events
- Pricing/uncertainties/ability for provider to re-price
- The practical process

Consider requesting “key terms” at outset – don’t assume terms are standard

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## Understand what is needed from the Trustee and others

Training: Does the Trustee Board understand the proposed deal structure, risks and benefits?

Decision making: scope and timing of decisions required

Input needed from Scheme administrator:

- Data
- Benefits
- Communications

Investment issues: timing and practicalities of any disinvestment

A project plan and buy in from all stakeholders is key

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## Questions

## Comments

Expressions of individual views by members of the Institute and Faculty of Actuaries and its staff are encouraged.

The views expressed in this presentation are those of the presenter.

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