

Broad comparability certification

Our client, an NHS Foundation Trust, had been awarded commercial outsourcing contracts to provide services to a number of local authorities.

Client problem

Government policies meant the Trust was required to offer pension benefits which were “the same as, broadly comparable to, or better than” the benefits the transferring staff would otherwise have continued to earn with the local authority (i.e. the LGPS).

On transfer, the staff joined the NHS Pension Scheme, which differs from the LGPS in a number of ways. Hence, there was a requirement for the benefits to be certified as “broadly comparable” to the LGPS. In addition, the Trust needed to give reassurance to the staff and local authorities about these benefits.

“Broadly comparable” is not formally defined, but there is HM Treasury guidance. This includes a requirement that the benefits should be scrutinized by a professionally qualified actuary (who need not be an employee of the Government Actuary’s Department) which compares the alternative scheme with the public service scheme in detail. There was no contractual obligation to use the Government Actuary’s Department and hence we were appointed to provide the required advice.

Challenges

Our client had some key challenges, which we rose to.

Inflexibility of public sector pension schemes

The Trust was unable to participate in the LGPS and so had to offer the NHS Pension Scheme to the transferred staff. We knew the NHS Pension Scheme could never be certified fully as “broadly comparable” to the LGPS.

Short timescales and limited budgets

Our client had only been advised late in the day that they needed to satisfy the Best Value obligations, and so had little time (and minimal budget) to address these requirements. The agreed package needed to have a high level of cost certainty.

We worked closely with our client’s legal advisers to ensure their requirements were addressed on budget and on time, and in an easily useable manner.

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We agreed with Hymans, on behalf of our client, a very competitive fixed fee and a very quick turnaround time. Hymans managed to distil complicated and technical actuarial information into an easy to follow report, which enabled our client and the commissioning authority to agree reasonable adjustments to compensate the individuals for the fact that the NHS Pension Scheme is not broadly comparable to the LGPS. ”

Partner

Legal Advisor

Client benefits / How we helped

Through working with us to address these challenges, the Trust benefited from:

In-depth understanding of the broad comparability requirements – our experts have advised numerous clients regarding these issues. Malcolm Stanley had worked at the Government Actuary's Department and has a thorough knowledge of the broad comparability requirements, so we were able to provide our advice for a fixed fee.

Collaborative approach to achieve more effective outcomes – we worked closely with the Trust's legal advisers to make sure our recommendations were focussed on what was readily achievable by the Trust.

Clear, straightforward approach – our straightforward and clear advice ensured that decision makers (at the Trust and at the local authorities) understood the key issues, accepted our advice, and implemented our recommendations to the satisfaction of all affected parties (including the transferred staff).

The outcome

We agreed a short turnaround time and agreed fixed fees for the work. These acknowledged the problems with comparing two inflexible statutory schemes, and included providing clear recommendations of practical solutions for addressing the detriments.

We proposed a pragmatic approach that enabled the Trust to agree a mutually acceptable solution, that reassured the staff and the transferring local authority. The solution (covering adjustments to pay as well as benefits) was also simple to implement.

If you would like to discuss the issues raised here and how we can help you, please contact one of our team of experts. Our key contacts are:



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