

Trustee announcement about C Plan issues 30 November 2009

ANNOUNCEMENT TO MEMBERS RE C PLAN ISSUES

Dear C Plan and Enhanced M Plan (ex C) Member

In my communication to Defined Benefit members dated 28 October 2009 I said the following:

“The Trustee has been approached by solicitors, acting for clients who are members of the C Plan, bringing to the Trustee’s attention announcements made to members by the Company when the C Plan was introduced. The point at issue is whether these announcements gave members the right to retire between the ages of 60 and 63 without requiring Company consent and without actuarial reduction: this ‘right’ was not reflected in the Trust Deed and Rules. The Trustee appreciates the great importance of this issue to members who are considering applying for consent to retire in the ‘early retirement window’. The Trustee is seeking the Company’s position, is contacting those involved in the introduction of the C Plan, and taking advice from Leading Counsel”

Although the Trustee has not yet completed its work on this topic it feels that it now appropriate to provide an update to members including those Enhanced M Plan members who previously were members of the C plan.

Contract

The Trustee has taken advice on this issue from Leading Counsel and the Trustee has advised the Company, through its solicitors, that the Trustee has received clear and firm advice that, on the basis of the documentation that Leading Counsel has seen, those members who transferred from the N Plan have a contractual right to retire from age 60 without Company consent and without an actuarial reduction applying. Leading Counsel's view is that this right may arise under a contract that has arisen between the Members and the Company. However, the Trustee wishes to make clear that the question of whether or not a contract exists is a matter for individuals and the Company and that the Trustee is not able to advise Members on this issue. Members should take any advice they consider appropriate and should not rely on the preliminary views expressed by the Trustee's Leading Counsel. Provisions of the Trust Deed and Rules.

In addition to the above contractual point Leading Counsel advised that the Trustee should investigate whether or not the evidence warrants an application to Court on the basis that the provisions of the Trust Deed and Rules in relation to this issue do not reflect the then intentions of the Company and the Trustee and should be "rectified" i.e. corrected. This will involve interviewing a number of individuals connected with the introduction of the C Plan in 1983 and collating all the relevant documentation from that period.

The Trustee is therefore attempting to establish the intention of the Trustee and the Company in 1983 (when the C Plan was introduced) to determine whether or not the provisions of the Trust Deed and Rules are incorrect and whether an application should be made to Court to rectify the documentation. This work is ongoing.

Timescales

The Trustee appreciates the great importance of this matter to members and is progressing this matter as quickly as possible. However, the Trustee does not expect to have concluded its work before the Company's deadline of 11 December (the deadline for accepting or rejecting any offers for early retirement).

Until this matter is resolved, the Trustee must administer the Plan on the basis of the current provisions in the Trust Deed and Rules which provide that Company consent is required if an active Member wishes to retire before age 63.

The Trustee has asked the Company to provide it with its views on these issues urgently and has asked the Company to delay the closure of its early retirement window until this matter is resolved. The Company has stated to the Trustee that it intends to provide a substantive response on the issues by no later than 4 December 2009. However, the Company's solicitors have told the Trustee's legal advisers that the Company sees no reason to make any changes to the early retirement process.

Members must consider their own position and take any advice they consider appropriate.

James S Lamb
Chairman
30 November 2009