



DEFINING WITH PROFITS EMPLOYERS

1. Why Cheviot considers the firm to be a With Profits Employer

Employees of your firm or its predecessors participated in the With Profits Section. To enable this, the employer signed applications forms for each member. These forms will have been signed more than 20 years ago.

The application forms contained wording the same or similar to the wording below:

"I, the above named Employee, and I/We the above named Employer(s), hereby apply for admission of the said Employee to Membership of THE SOLICITORS STAFF PENSION FUND and we agree to be bound by the Rules of the Fund and by any modifications made in accordance with the provisions thereof and to pay the appropriate Contributions as and when they become due."

"I/We the above-named Employer(s),...agree to be bound by the Rules of the Fund and any modifications made in accordance with the provisions thereof and to pay the appropriate Contributions as and when they become due so long as the said Clerk remains in the employment of the said Employer or until pension age is reached."

"...We agree to be bound by the Trust Deed and Rules. We agree to pay the relevant contributions on a monthly basis including any contributions deducted from the Member's Salary."

The Trustee consulted Leading Counsel, Nicolas Stallworthy KC, who confirmed that these undertakings bind employers to the Rules of the With Profits Section and any amendments made, even if those amendments were made after the employer ceased to employ any members of the With Profits Section.

Many employers in the With Profits Section have changed legal personality including, for example, converting to an LLP or merging with another firm. The definition of With Profits Employers under the Scheme rules include "Successor Employers".

2. The responsibilities of With Profit Employers.

All With Profits Employers¹ are responsible under the Rules for funding their share of the With Profits Section together with a share in any orphan liabilities.

A change in pensions law re-classified the legal structure of the With Profits Scheme for pensions legislation in 2014². Following that change, the Trustee obtained a Court Order from Mrs Justice Asplin (now Lady Justice Asplin), under the terms of section 48 of the Administration of Justice Act 1985, authorising that the contribution rule be inserted into the Rules of the With Profits Section. All With Profits Employers are bound to follow the contribution rule and to pay contributions if required to do so by the Trustee.

¹ See definition in the Scheme rules

² See the Contribution Rule factsheet



3. Being discharged as a With Profits Employer

The legislation (the Employer Debt Regulations) allows statutory employers (those employers who have not changed legal entity since 2002) to request that the Trustee calculates their share of the liabilities, including the Section's orphan liability (which is more significant on a statutory basis), and discharge employers from those statutory liabilities on receipt of that payment.

However, the contribution rule also requires a contractual discharge (Rule 3.5) from the Trustee and without it, the statutory employers will remain liable as a contractual employer under the Rules.

The Trustee is committed to acting fairly between employers. With Profit Employers share responsibility for the funding of the scheme, including any orphan liabilities (when the employer is no longer in existence or become insolvent). The risks to the With Profits Section and collectively to all employers are minimised if all employers stay in together. As a result, the Trustee's policy is currently not to discharge employers. The policy is kept under review and the Trustee will consider requests on their individual merits. It is also considering whether a requirement to pay contributions suggests that a change to this policy is possible or appropriate, whilst still balancing the interests of the scheme members and remaining employers.

This approach is being taken:

- to ensure fairness between employers
- to avoid any deterioration in the combined covenant of the employers to the With Profits Section, and
- to avoid any unnecessary costs incurred in agreeing such discharges on a firm by firm basis.