

SECTION 4

TAKING OUR PLACE TO ADMINISTER THE PLAN IN THE BEST INTERESTS OF MEMBERS AND OUR UNION ACTIONS



Fédération
des travailleurs
et travailleuses
du Québec



FONDS
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Service aux collectivités
Université du Québec à Montréal



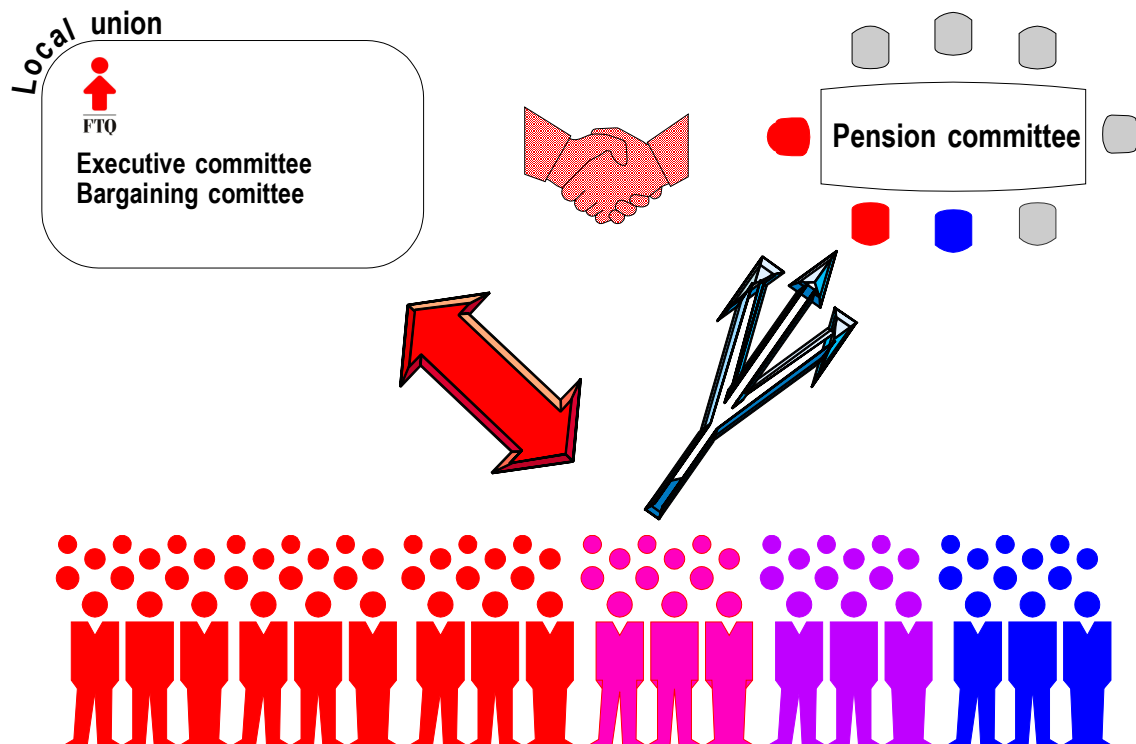
In this Section, we shall see that:

- (1) The different pieces of legislation make it possible to establish a **pension committee** with **minimum representation for contributors and retired persons** as administrators of the plan; in Quebec, the legislation requires this...
- (2) The **fiduciary responsibility** of a member of the pension committee means first and foremost that the plan is managed “*in the best interests of the members and beneficiaries*”; from this perspective, fiduciary duty and union involvement supplement and strengthen each other mutually.
- (3) We must ensure that the **pension committee meets regularly** in order adequately to fulfil its fiduciary duties and to adequately monitor and control the tasks for which it is responsible and those it has delegated to outside suppliers or the employer.
- (4) The committee may delegate its responsibilities but it remains responsible for them in the final analysis. It must therefore **give clear instructions to the delegatee and monitor him or her regularly**. Furthermore, **it should not delegate certain central strategic functions** such as monitoring the administration of the plan in light of its objectives, selecting and monitoring certain key suppliers and ensuring that the legislation is complied with.
- (5) It is important **to inform the members of their rights**. The summary of the plan and their personalized statement are two important tools for this purpose.
- (6) It is in the interests of those responsible for pension matters in the local union to understand and explain the personalized record to the members since it is an information tool that is too often neglected.
- (7) The **Annual Meeting of the members of the pension plan** can be an ideal time to inform the members and to allow them to express their views concerning their needs and expectations for the pension plan and its administration.

Introduction

Up to now, we have considered the provisions of pension plans and of our supplementary pension plan. This enables us to understand the extent to which the income security of our members is ensured when they retire as well as the measures that would be required to achieve our objectives for income replacement on retirement and thus to ensure that each of our members can retire in dignity. We have also examined the issue of the funding of pension plans and the actuarial valuation in order to better understand how a defined benefit plan is funded and the issues that need to be watched more closely.

We must now give some thought to our operations and our practices, not only in the pension committee but also with respect to the member and our union bodies (annual general meeting, executive committee, bargaining committee, etc.). It must be noted at the outset that the pension plan was established and must be administered *in the best interest of the members* of the plan. The members are not only directly affected by what happens to the plan, but they also have rights and powers at the level of the union as well as within the pension committee:



The challenge here is therefore to take our place to administer the plan in the best interest of the members, both through our activities in the pension committee and in our union practices.

We shall begin by focusing on the membership and mandate of the pension committee, and this will then bring us to the issue of *fiduciary duty*.

1. The pension committee as the *administrator* of the plan and its membership

Discussion

What is the membership of your pension committee? More specifically, how many persons representing the active or retired members of the plan are there out of the total of how many members on the committee as a whole?

The legislation provides that every pension plan must be created as a **trust that is separate and distinct from the employer**; someone must assume responsibility for it and make all the necessary decisions to ensure that it is well managed and the legislation has accordingly entrusted responsibility for the management of the plan **to an administrator**. Depending on the applicable legislation, however, this administrator may take different forms:



The pension plan must be administered by a **Pension Committee**, consisting of:

- at least two members elected by the active and the retired members respectively,
- two individuals also elected by these members but who have no voting rights, and
- an independent member. (Sections 147 - 147.1)

The legislation does not indicate the number of members who are designated by the employer, which allows the employer to name as many as it wishes in order to maintain a clear majority of members on the pension committee. The Act does not indicate either a maximum number for the representatives of our members and it will be necessary to negotiate this figure! Specific provisions make it possible to exempt simplified pension plans from this requirement.



The administrator of a pension plan is:

- in the case of a plan covering several companies subject to a collective agreement, the management organization established in accordance with the pension plan or the collective agreement;¹
- in a plan applying to only one employer, the management organization indicated in the pension plan or the collective agreement by the parties to a collective agreement, or, failing this, the employer;
- in the case of a simplified plan, a financial institution if necessary.



The administrator may be an employer, a pension committee consisting of representatives of the employer and the members, a pension committee consisting exclusively of representatives of the members of the pension plan (*union plans* are expressly permitted in Ontario), a board of trustees of an inter-company plan at least one-half of whose members represent the members of the inter-company pension plan or of any other organization to which the legislation assigns responsibility for administering a particular plan.

Only in Quebec does the Act impose a requirement that a pension committee that includes minimum representation of active and retired members be established to administer a pension plan. Under the legislation in the other jurisdictions, it is possible to do so but *its establishment is then subject to negotiation*. Many groups have done precisely this, not only to ensure increased transparency in the administration of their pension plan but also to be able to have their say in the way it is managed.



Whether our plan is subject to federal jurisdiction, that of Quebec or one of the other provinces, **it is possible to negotiate increased representation, whether on a basis of equality or a majority, for members of the pension committee. Ontario even provides the possibility of a pension committee consisting exclusively of representatives of plan members.** In the case of a defined contribution plan in particular, where the members assume 100% of the risk, it would be normal for a majority or all of the members of the pension committee to represent these members. In the case of a defined benefit plan, the fact that the employees are the beneficiaries of the pension plan and the plan constitutes their deferred salary would justify negotiating equal representation for members on the pension committee, and groups in both the public and the private sectors have succeeded in doing this over the years.

¹ If an multi-employer plan is not covered by a collective agreement, the Act provides for the establishment of a pension committee that must include a minimum amount of representation for members or retirees.

2. The pension committee’s fiduciary duty : **to administer the pension plan in the best interest of the members**

What does the Act say?

All Canadian legislation contains similar provisions relating to the *fiduciary duty* of the pension committee or of the administrator of any pension plan and these provisions are based on similar legislation in the United Kingdom and the United States. All members of the pension committee share this **fiduciary duty** jointly and severally and must work in the best interest of the members and beneficiaries. The legislation is very clear in this respect, as can be seen in the following table:

	
<p>151. The pension committee shall exercise the prudence, diligence and skill that a reasonable person would exercise in similar circumstances; it must also act with honesty and loyalty in the best interest of the members or beneficiaries.</p> <p>The members of the pension committee shall use in the administration of the pension plan all relevant knowledge or skill that they possess or, by reason of their profession or business, ought to possess.</p> <p>158. No member of a pension committee may exercise his powers in his own interest or in the interest of a third person² nor may he place himself in a situation of conflict between his personal interest and the duties of his office.</p> <p>If the committee member is himself a member or a beneficiary of the plan, he shall exercise his powers in the common interest, considering his own interest to be the same as that of the other members or beneficiaries of the plan.</p>	<p>8. (3) The administrator shall administer the pension plan and pension fund as a trustee for the employer, the members of the pension plan, former members, and any other persons entitled to pension benefits or refunds under the plan.</p> <p>(4) In the administration of the pension plan and pension fund, the administrator shall exercise the degree of care that a person of ordinary prudence would exercise in dealing with the property of another person.</p> <p>(4.1) The administrator shall invest the assets of a pension fund in accordance with the regulations and in a manner that a reasonable and prudent person would apply in respect of a portfolio of investments of a pension fund.</p> <p>(5) Without limiting the generality of subsection (4), an administrator who in fact possesses, or by reason of profession or business ought to possess, a particular level of knowledge or skill relevant to the administration of a pension plan or pension fund ...</p> <p>(10) If there is a material conflict of interest between the role of an employer who is an administrator, ... and their role in any other capacity, the administrator</p> <p>(a) shall, within thirty days after becoming aware that a material conflict of interest exists, declare that conflict of interest to the pension council or to the members of the pension plan; and</p> <p>(b) shall act in the best interests of the members of the pension plan.</p>

² The “third persons” mentioned here include the employer.

What does the “*interest of members*” mean in the context of a pension plan?

How can unions take action with respect to pension plans that meets both the legal requirements arising from the imposition of a *fiduciary duty* and the goals of the union to defend and promote the individual and collective interests of the members?

The members sitting on a pension committee have already heard many employers and experts explain to them that “fiduciary duty means that you must take only the return into account because that is where the members’ interest lies and you must leave your union member’s hat at the door as well as the principles that would be contrary to this interest of the members”.

However, is the interest of the members as restricted as this suggests? It certainly is not when we consider the challenges that also constitute the interest of the members:

- ☞ When the administrator has to **interpret** the provisions of the plan, does he always give precedence to an interpretation that favours the members?
- ☞ When an error has been made, do **the interest of the member affected and fairness** take priority over the financial interest of the plan?
- ☞ When the pension plan receives financial returns that exceed the forecasts, are these additional assets used to increase the **security of the benefits** promised or to **improve** benefits for active and retired members?
- ☞ Does the administrator do everything possible to ensure that **the members are fully informed of their rights** and can exercise them easily?
- ☞ In **exercising the voting rights** attached to the shares held by the pension plan, does the administrator take the trouble to ensure that these voting rights **reflect the interests and values** of the plan members and are the members clearly informed of this?
- ☞ In his or her investment policy, does the administrator take into account the aspirations of the members to live their retirement in **communities that are socially and economically healthy**, offer quality of life and a decent environment and are free of endemic violence and crime?

The law is clear: the members of the pension committee, regardless of who appointed them (employer, plan members, etc.), individually and collectively and showing solidarity, have a **fiduciary duty to administer the plan in the best interest of the members**. However, while they have responsibilities from a legal point of view, **they also have rights and powers!**

3. Operations of the pension committee

Discussion

1. How often does your pension committee meet? Do you find this sufficient? Why (not)?

2. Does the conduct of the meetings of the pension committee enable you, as a member of the pension committee, to become well informed and to understand the extent to which the pension plan is administered effectively? If not, what are the main problems you have to deal with?

3. Has the pension committee delegated the following responsibilities of the pension committee to the employer? If so, was this delegation accompanied by very precise directives or instructions? How often does the employer submit a report on how it is performing the tasks delegated to it by the pension committee?

Responsibility of administrators / trustees	Delegated to employer?	If delegated to employer:	
		Specific instructions?	Reporting frequency
Selection of actuary	<input type="checkbox"/>	<input type="checkbox"/>	
Preparation of actuarial valuation and discussion of draft report	<input type="checkbox"/>	<input type="checkbox"/>	
Development of investment policy	<input type="checkbox"/>	<input type="checkbox"/>	
Dismissal and selection of managers	<input type="checkbox"/>	<input type="checkbox"/>	
Periodic meetings with managers	<input type="checkbox"/>	<input type="checkbox"/>	
Monitoring the exercise of voting rights attached to shares held by the fund	<input type="checkbox"/>	<input type="checkbox"/>	
Calculation of benefits	<input type="checkbox"/>	<input type="checkbox"/>	
Application and interpretation of provisions of the plan	<input type="checkbox"/>	<input type="checkbox"/>	

What observations do you take from the preceding discussion in terms of the overall operations of your pension committee?

The governance of the pension committee must allow it to perform its fiduciary duties adequately

There has been a lot of talk in recent years of the *governance* of pension funds, that is the way a pension committee is organized in order to perform its role as a trustee. Obviously, the members of a pension committee do not work full time for the pension plan and do not necessarily have all the required skills, which explains the need for the pension committee to make use of the services of people or organizations that have the relevant expertise to advise the pension committee or to assume certain tasks, for example, investing the moneys in the fund. A number of documents have been written that explain some of the fundamental elements in the governance of a pension plan. The following are only a few of them:

Guide for Pension Committee Members by Jacqueline Beaulieu, Carole D'Amours, Brigitte Marceau and Claude Rodrigue. Quebec City: Régie des rentes du Québec, 1999 (available from the Régie des rentes du Québec and on their Website (www.rrq.gouv.qc.ca))

Recommendations of the Joint PIAC, ACPM and OSFI Task Force on the governance and self-assessment of pension plans (available on the Website of the Office of the Superintendent of Financial Institutions of Canada (www.osfi-bsif.gc.ca/fr)).

Tasks that a pension committee should not delegate

If there is one thing that is clear in all these documents, it is the fact that ***the pension committee is responsible in the final analysis for ensuring that the pension fund adequately performs its mandate to pay the promised pensions to the members***, regardless of whether the committee surrounds itself with experts or delegates some of its tasks, including to the employer. An international organization that is well known for its involvement in corporate governance, the Organisation for Economic Co-operation and Development (OECD), has taken the trouble to point out in a document entitled *Guidelines for Pension Governance* that a pension committee “***should not be able to completely absolve itself of its responsibilities by delegating certain functions to external service providers***.”³ Among the main responsibilities of a pension committee that should not be completely sloughed off, the OECD Guidelines list the following:

- monitoring the administration of the pension fund in order to ensure that the objectives set out in the fund by-laws, statutes, contract or trust instrument, or in documents associated with any of these, are attained;

³ OCDE, *Annotations to Guidelines for Pension Fund Governance in Guidelines For Pension Fund Governance*. Paris: July 2002. P. 3.

- selecting, compensating, monitoring, and, where necessary replacing staff with operational responsibilities as well as external service providers (e.g. asset managers, actuaries, custodians, auditors, etc);
- ensuring the compliance of the activities of the entity with the pensions law (e.g. investment regulations, reporting and disclosure requirements, control of conflicts of interest situations, improper use of privileged information, etc);

Even when the members of the pension committee delegate some of their tasks, they continue to have a fiduciary duty: they must therefore combine these delegations with appropriate instructions and put adequate controls in place.

How is fiduciary responsibility to be reconciled with the fact that many pension committees have delegated all or very many of their tasks of administering the pension plan to the employer? In its *Guide for Pension Committee Members*, the Régie des rentes du Québec examines this question and states the following:

The pension committee may **delegate** some of its responsibilities, but delegating is not the same as abdicating. The Régie even states:

Position of the Régie des rentes:

You must supervise your delegatee

When a responsibility is delegated, you must adequately supervise the delegatee's actions to ensure that he carried out his duties properly.... You must put into place control measures that will allow you to detect any administrative problems. For this purpose, you should require the delegates to provide the committee with all documents and reports that are needed to ensure that everything is going well. Each committee member should study such information and, if needed, use the services of consultants to analyse it.

*Prudence is required even where responsibilities are delegated to the employer. He may find himself in a situation where he will have to choose between his own interests and those of the plan's members and beneficiaries. To protect the pension committee and the employer from any criticism from the members and beneficiaries, it is recommended that you come to an agreement at the outset on the means to be used to allow the committee to ensure monitoring of any responsibilities delegated to the employer. (Régie des rentes du Québec. *Guide for Pension Committee Members*. Québec: 1997. p. 18)*

The problem in itself is not therefore the delegation but remembering that ***the pension committee is the "boss"*** and it sets the framework and mandate and provides controls in order to be well informed and able to intervene if necessary to ensure that its point of view prevails.

The annual review of delegations, a good time to take stock and ensure that instructions are clear and the controls adequate

Moreover, the Act gives such great importance to the delegation of powers that in 2000, it strengthened the duty of a pension committee to review the delegations it has made whenever a new member with voting rights is appointed to the pension committee, except where the person is merely appointed to complete the mandate of another member:

155. Except in the case of the renewal of a designation or the designation of a new member under section 167, the pension committee shall, within 30 days after a member having the right to vote takes office, reexamine the delegations of powers to determine those that are to be maintained and those that are to be revoked. (*Supplemental Pension Plans Act*, R.S.Q., c. R-15.1, s. 155)

All the members of the pension committee are therefore, in the final analysis, **responsible** for the administration of the pension plan, including the duties entrusted to the employer. If you are not satisfied with the way any delegation is exercised, including the management of the benefits to which the members of the plan are entitled (eligibility, calculation of benefits, criteria for determining disability within the meaning of the plan, etc ...) or whether you feel that the measures for controlling and monitoring this delegation – or the lack of measures – prevent you from exercising your fiduciary duties, you have the right to request that the exercise of certain specific powers be returned to the pension plan or, failing this, to vote against any extension of the delegation or to record your dissent. Furthermore, since the pension committee is the administrator and delegates certain responsibilities, it retains the freedom to combine this delegation with directives limiting this delegation, including the possibility that the committee becomes the place where the documents governing the plan must be interpreted as necessary when a member feels aggrieved.

Accountability, a consequence of the fiduciary duty

The fiduciary duty of the pension committee, which is to administer the plan in the best interest of the members and beneficiaries, implies that the pension plan must be accountable to the members.

The Act is very clear. The pension committee as well as each of its members is individually and severally responsible for ensuring that the plan is administered in the best interests of the members and beneficiaries. This implies that the pension committee must be accountable to these individuals for its activities. To the extent that, in addition, the supervisory organizations rely on the information and transparency mechanisms prescribed by law, including the establishment in Quebec of pension committees with member representation, this accountability to the members of the plan becomes even more important.

When a pension committee makes decisions that, in the opinion of members of the pension committee, are contrary to the Act or the interests of the plan members, a member of the committee may **register his or her dissent**. The relevant provision of the Act reads as follows:

156. Every member of the pension committee is presumed to have approved any decision made by the other members. He shall be solidarily liable therefor with the other members unless he expresses his dissent without delay.

He is also presumed to have approved any decision made in his absence unless he makes his dissent known to the other members, in writing, within a reasonable time after becoming aware of the decision.

In the Guidelines it has issued concerning the governance of pension funds,⁴ the OECD sets out a number of requirements to be met in order to ensure the accountability of the pension committee:

⁴ OECD, *Annotations to Guidelines for Pension Fund Governance* in *Guidelines For Pension Fund Governance*. Paris, July 2002. pp. 5-6

	Link with federal and Quebec legislation
<ul style="list-style-type: none"> ● regular meetings of the pension committee; 	
<ul style="list-style-type: none"> ● diffusion of decision-making power in the governing body (for example, a requirement for decisions to be taken on a majority basis); 	<i>Individual and several liability of each member of the pension committee with the right, however, to record his or her dissent</i>
<ul style="list-style-type: none"> ● appropriate disclosure to members and beneficiaries concerning the decisions made at these meetings, at the very least, it is indicated later, concerning decisions that could have a material impact on future benefits such as a change in the investment policy and these decisions should be communicated regularly, for example once a year; 	<i>The duty expressed in both acts to submit an annual report to all members of the plan as well as the requirement in the Quebec Act for an annual general meeting at which reports are submitted to the members.</i>
<ul style="list-style-type: none"> ● reporting of information about the operation of the pension fund to the supervisory authorities; 	<i>Required by both acts.</i>
<ul style="list-style-type: none"> ● transparent selection mechanisms for the members of the pension committee, including the possibility of appointing representatives of the members and beneficiaries through a fair selection system that should take the form of an open election, although it is recognized that where a union exists, the union's election procedure for selecting members of the pension committee may make any other method of election superfluous. 	<p><i>The Quebec Act provides expressly for this (election of 2 members with voting rights and 2 without voting rights at the annual general meeting) and a requirement that an independent member be appointed.</i></p> <p><i>Neither Act makes provision for the other members of the pension committee.</i></p>
<ul style="list-style-type: none"> ● appropriate succession planning processes. 	<i>The Quebec Act has provided for the election of 2 non-voting members since 2000 for this very purpose.</i>

4. Information: a right and a necessity

Far too many of our members and even the leaders of our union locals make do with a situation where the pension plan is viewed as something that is hard to understand and the annual statement as a series of figures and tables that cannot be understood – black magic full of numbers appearing out of nowhere!

Would you entrust \$85,000 to a financial institution without knowing what will happen to it and without having any say ?



Too often, we spend our working years not knowing what amount of money we shall have to live on in the 20 to 25 years of our lives following retirement.

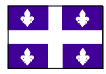
Furthermore, far too many employers have refused to invest the financial and human resources to ensure that the information on the pension plan is simple, understandable and relevant. It is not always easy at first although sometimes it becomes even more complicated! This is true of individual information and even more so of group information concerning the plan. Should the employer not have an interest in communicating effectively if not publicizing the professionalism and quality of the management of the plan in the interests of the members?

For its part, should the union not focus its strengths and its ability to contact the members and to speak directly to them in a language that they understand in order both to meet this need for information and also to become the chosen spokesperson of the members concerning the pension plan and also to be able to count on their interests and their ability to mobilize when the challenges faced by the pension plan require this?

We shall begin by examining the question of the information to which the members are entitled, primarily by presenting the **personalized statement**, both because it is important for each member to better understand his or her pension plan and the rights he or she has accumulated to date as well as because this is a concrete way for the member sitting on the pension committee to make contact with the members, make him- or herself better known and often to discover first hand the problems in the application of the pension plan.

5. The personalized record, a neglected information tool

The personalized record must contain a number of explanations, which vary in accordance with the applicable legislation.



See section 112 of the SPP Act and section 57 of the SPP Regulations, which provide incidentally that the statement must be forwarded within nine months of the end of the year.



See section 28 of the *Pension Benefits Standards Act* and sections 22 and 23 of the *Pension Benefits Standards Regulations*, which provide that the statement must be sent within 6 months of the end of the year. <http://conference.se-es.ca/>



See section 27 of the *Pension Benefits Act* and section 40(2) of the Regulations, which provide that the statement must be sent within 6 months of the end of the year.

How do we understand our personalized statement?

There is a wide variety in the formats of personalized statements. Some are printed on both sides of a sheet of paper and contain the minimum amount of information required by law: it does not take long to read but it does not always optimal in terms of simplicity and understanding. Others, however, take the form of glossy small brochures that stress the “unique and generous benefits” that the company provides for its staff but the members cannot always find their way through the host of simulations and data shown. Some statements take the trouble to provide members with information on the income and service credited for *each* year of membership. This makes it much easier for the member to check the accuracy of the information concerning all his or her accumulated service. Others do not take the trouble to do this. Moreover, only in exceptional cases does a company provide information sessions or clinics to help the members of a plan to understand this statement. These members do not always know where to turn in order to understand what is in the document. As a result, the document arrives by mail once a year and, since it is practically incomprehensible to many members, it is carefully placed in the drawer containing the member’s personal papers when it is not purely and simply misplaced. This is an important need of members and the union should take steps to ensure that it is met appropriately. Some more far-sighted employers have understood the need and provide such sessions or clinics. However, where the employer cannot or does not wish to inform the members about the personalized statement, *why would the union or the members of the pension committee not take the initiative and organize such meetings?*

Shown below is an example of one of the briefer personalized statements showing the information that such a statement is likely to contain. The following example applies to a defined benefit plan:

Sample statement

- The plan pays a pension equal to **1.5% per year** of credited service of the **average salary for the 5 best years**.
- There is **no co-ordination** with the Quebec/Canada Pension Plan.
- There is no bridging benefit.
- Early retirement without penalty at age **60** or after **35 years of service**.
- **Early retirement** from age **55**, at which time the **penalty is 6% per year until age 60 is reached**.
- Periods of sickness or maternity leave are exempt in the sense that they are credited even though no contributions are paid.
- **Periods of authorized leave** (release for union activities, etc.) and lay-off with recall rights **may be bought back** as long as an amount equal to the **employee contribution** required for the period is **paid**.

Generous Co. pension plan
 Régie des rentes du Québec registration certificate No.: 12345
 CCRA approval number: 987654

Your pension plan

Shirley Hopeful
 872 Memory Lane
 Gaspé, Québec

Statement date: December 31, 2003
Date of birth: January 1, 1951
Social insurance number: 123 456 789

Name of spouse as registered with the plan: Unknown
Name of designated beneficiary: Unknown
Date plan joined: January 1, 1975
Interest rate applied in 2003 to calculate interest on contributions: 7.5%

Summary of benefits

Service for eligibility purposes: 29.000 years	Service for calculation purposes: 28.000 years	Contributions paid: \$26,480	Interest accrued: \$16,052	Total: \$42,532
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Benefits on cessation of employment

On cessation of employment, you are entitled to an annual retirement pension payable at age55 equal to \$8,219.

Death benefits

If you die, your spouse or your heirs will be entitled to the value of the pension then vested in you in a lump-sum payment.

Estimated retirement pension in light of eligibility

	Date	Eligibility		Membership	Retirement pension	
		Age	Service		\$	As a % of the average salary in the five best years
With actuarial reduction	January 2006	55	31	30	\$15,244	39.8%
Without actuarial reduction	January 2010	59	35	34	\$19,552	51.0%
	January 2016	65	41	40	\$23,003	60.0%




Statement of your plan membership as of December 31, 2003

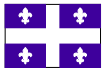


Year	Salary	Contributions	Service for purpose of	
			eligibility	calculation
1975	\$7,500	\$375	1.000	1.000
1976	\$7,950	\$398	1.000	1.000
1977	\$8,427	\$421	1.000	1.000
1978	\$6,700	\$335	1.000	1.000
1979	\$9,469	\$473	1.000	1.000
1980	\$0	\$0	1.000	1.000
1981	\$10,639	\$532	1.000	1.000
1982	\$11,277	\$564	1.000	1.000
1983	\$11,954	\$598	1.000	1.000
1984	\$0	\$0	1.000	0.000
1985	\$13,431	\$672	1.000	1.000
1986	\$14,237	\$712	1.000	1.000
1987	\$15,091	\$755	1.000	1.000
1988	\$15,997	\$800	1.000	1.000
1989	\$16,957	\$848	1.000	1.000
1990	\$17,974	\$899	1.000	1.000
1991	\$19,053	\$953	1.000	1.000
1992	\$20,196	\$1,010	1.000	1.000
1993	\$21,408	\$1,070	1.000	1.000
1994	\$22,692	\$1,135	1.000	1.000
1995	\$24,054	\$1,203	1.000	1.000
1996	\$25,497	\$1,275	1.000	1.000
1997	\$0	\$1,351	1.000	1.000
1998	\$28,648	\$1,432	1.000	1.000
1999	\$30,367	\$1,518	1.000	1.000
2000	\$32,189	\$1,609	1.000	1.000
2001	\$34,120	\$1,706	1.000	1.000
2002	\$36,168	\$1,808	1.000	1.000
2003	\$38,338	\$1,917	1.000	1.000

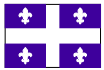


The previous example contains a detailed year-by-year table. Such a presentation is not required by law but is very helpful to make all their rights clear to individuals and to identify errors in their record. This is a practice that the members of the pension committee should encourage in the presentation of the annual personalized statements sent to members.

Speaking more generally, the following table will help you identify a number of elements that are required by the federal and Quebec legislation and that should be included in your annual personalized statement.

Table: Some elements that must be included in a personalized statement.

				
Identification				
Member's name		R. 57, 1°	R. 23(1)(a)	R. 40(1)(b)
Name and registration number of pension plan		R. 57, 2°		R. 40(1)(a)
Address of pension committee's office and name and address of resource person to be contacted for information concerning the plan		R. 57, 3° and 4°		
Name of spouse or beneficiary (or no record)		R. 57, 6°	R. 23(1)(g) and (h)	R. 40(1)(h) and (i)
Member's date of birth;			R. 23(1)(c)	R. 40(1)(b)
Rights vested in member				
Date membership in pension plan began		R. 57, 7°	R. 23(1)(d)	R. 40(1)(d)
When?	Date(s) when member acquired or will acquire all his or her rights			R. 40(1)(e)
	First date on which member will be eligible for early retirement		R. 23(1)(ff)	

				
	Date when normal pension becomes payable	R. 57, 9°		R. 40(1)(f)
	Date on which member will attain age of eligibility;		R. 23(1)(e)	R. 40(1)(g)
Contributions	Amount of employee or voluntary contributions paid by member during latest year and total value of employee contributions with interest	R. 57, 10°	A. 28(b)(ii), R. 23(1)(i) and (j)	R. 40(1)(k), (l), (m) and (n)
	Employer contributions paid on member's behalf (defined contribution plan) during year and total contributions accumulated with interest	R. 57, 12°	R. 23(1)(k)	R. 40(1)(o)
	Rights and amounts transferred to member's account and amounts paid to buy back past service during latest financial year and since joining plan	R. 57, 13°	R. 23(1)(l)	
Interest rate credited on contributions		R. 57, 14°	R. 23(1)(n)	
How much?	Service credited by plan as well as eligibility for retirement and for calculation of pension , during the latest year and since joining plan	A., 112, R. 57, 15° a)		R. 40(1)(pp)
	Normal pension payable for accumulated service	R. 57, 15° b) to d)	R. 23(1)(m)	
	Pension benefits to which member is entitled at end of year under plan		A. 28(b)(i)	
	Salary used to determine pension, where appropriate			R. 40(1)(p)
	Coordination with QPP and OAS, if any			R. 40(1)(p)

			
<i>At least every 3 years:</i> Amount transferable in event of cessation of employment	R. 57, 15 ^o 2 nd paragraph		
Benefit payable on member's death		R. 23(1)o	R. 40(1)(j)
Financial situation of plan and general information			
Financial situation of plan: solvency rate, actuarial surplus, employer contribution paid during financial year, portion of surplus, if any, used to pay employer contribution or to make improvements in plan	A. 112 R. 59.0.2	A. 28(b)(iii)	R. 40(1)(q) and (r)
Name and address of any association representing retirees, inactive members or beneficiaries	A. 112		

Here are some tips to help you understand and to explain a personalized statement:

1. First of all, understand it

In order to explain the personalized statement, it is essential that you fully familiarize yourself with the provisions of the pension plan and with the way the statement is set out. Start by fully understanding your own personalized statement, if necessary ask the Human Resources Department or (if the firm prepared the statements in question) the actuary; this is a good starting point. If you do not understand your own statement, it is unlikely that you will understand those of your colleagues!

2. First ensure that the picture is accurate

Start by fully ensuring that the picture is accurate and reflects reality



A statement must contain two kinds of information: **factual data concerning the member** and, later, **the projections and simulations made on the basis of these data**. The exercise in explaining must focus initially on understanding the factual data concerning the member because it is on this basis that not only will the simulations be made but also the pension will actually be calculated and paid. This is where the risk of error occurs. The mere fact that the data are output by the company's computer does not necessarily mean that they are error-free! In short, before looking at the simulations and projections, we should ensure that the picture at the start is understood and is accurate.

It is important to help the members identify where this information may be found and what it means. Above all, we must be able to ensure that the information contained in the statement reflects reality. The pension estimates will make more sense if the member understands where the calculations come from that produced these results

My profile is the basis for all the calculations and projections



3. Explain the benefits provided by the plan

Before explaining the pension estimates contained in the personalized statement (such as a pension at age 60 and another at age 65, for example), it is often a good idea to explain generally the plan's pension formula.

- **When** can I leave?
- **How much** will it pay?

- **What** conditions apply to payment of a full pension?

Can the members then make a connection between the personal information and the estimated pension. Furthermore, if they generally understand how the plan calculates the pension, they can gain a better idea by themselves e.g.: “if I work for one more year, my pension will increase by 2% of my final salary or \$800 per year”).

4. **Next explain how to read the pension projections**

It is now possible to explain the part of the personalized statement that explains the pension forecasts shown there. In some of the more detailed statements, you will find more than one calculation, for example:

- (a) what happens if you retire **on the first date provided for in the plan**, despite the **penalty** (e.g.: age 55);
- (b) what happens if you retire **on the first date on which you may do so without penalty** (e.g.: age 58 with 27 years’ service);
- (c) what happens if you retire at the normal retirement age, which is usually **age 65**.

If your plan is co-ordinated with the Quebec Pension Plan, the amount of the co-ordinated pension (when you reach age 65, for example) must also be shown.

It is in your interest to obtain explanations of how these examples were calculated. For example, if a member is entitled to retire in 10 years’ time, what salary will be used to calculate the amount? A common approach is to assume that the salary will be frozen from today until the retirement date, but you need to check that this is in fact the case! Similarly, inflation will generally be considered to be zero. What is even better is to ask questions in order to be sure you know what is what. If your plan is a career plan or a plan with a formula along the lines of “\$20 per year of service”, the retirement projects will often **overestimate** the replacement rate that your members will receive because no account is taken of the fact that your salary will increase between today and when you retire.

Since we are dealing with estimates, the goal is not to obtain figures that are correct to the last cent in the estimate but rather to provide an order of magnitude for the estimated pension and its likely nature. However, a result that is far from what was expected will indicate either an error in the statement or misunderstanding on your part of how to calculate the pension.

5. **Start modestly!**

Ensure that you fully understand your statement, and then look for opportunities to examine some personalized statements of members of your plan while attempting to gain exposure to the different situations that are likely to face you. Once you have seen a few, it may be a good idea to meet with the person who produces these statements. He or she

can explain how the statement is prepared and this will clarify for you some of the situations that may have caused you problems.

You will quickly confirm, after seeing a few cases, that you have demystified the statement and that you can give the members of the plan the benefit of what you have learned. You will feel more comfortable getting involved in organizing a session with some of the members of your plan at the same time. You will also find that you now have a much better understanding of the nature and calculation of the benefits provided by your plan.

Finally and above all, you will have enabled the members of your plan to better understand the benefits that the pension plan will provide them with and given them greater knowledge of what to expect when they retire. You will probably note later that the members of the plan will look to you to provide information, answer questions and give advice or information about a problem. As a member of the pension committee, you will at last have a reliable source of information to better understand the administration of the plan and the problems that arise.

6. Annual meeting of members: a good time to inform members of their rights and the administration of their plan and to hear their concerns

We are entitled to receive all the information about our pension plan and its administration. High standards of transparency are an important guarantee that our plan is well managed. This is why, even though access to any relevant documentation concerning the administration of the plan or investment of the assets should always be self-evident, the legislation has had to codify a set of **documents accessible by any member of the plan**. The Ontario Act even states that this right extends to “a representative of a trade union that represents members of the pension plan” (Act, s. 29(f)). Should the need arise, a list of the documentation that may be accessed by law by any member of a pension plan may be found for the different jurisdictions in the following acts and regulations:

Each of us has so much money in the fund: we should keep a close watch on things to make sure it's managed properly and in our best interests !



SPP Act, ss. 26, 111-112, 114, 146.6, 159 and 161 and SPP Regulations, s. 60.



Pension Benefits Standards Act, ss. 9.2, 10 (1), 12 (1) and (3), 28 (1) and (3) and *Pension Benefits Standards Regulations*, ss. 16 to 16.2



Pension Benefits Act, ss. 25-26, 29-30 and 78(2) and Regulations, ss. 8-10.1, 38-39, 45



BC Pension Benefits Standards Act, ss. 10(1) and (4),
18(2), 22(1) and 61(3) and *BC Pension Benefits Standards Regulations*, ss. 10 (2)
and 18(a)

The Quebec Act provides members and beneficiaries with another way to obtain information that is more direct and interactive. It requires **the pension committee to invite** in writing all of the members and the employer to a **meeting** within six months of the end of each financial year of the plan, at which meeting, at a minimum, reports are received on the **amendments made to the plan, its administration** and, where appropriate, any conflict of interest reported. Also at this meeting, the active **members**, on the one hand, and non-contributing members and retirees, on the other, **can elect their representative to the pension committee** as well as a second non-voting member. **There is nothing to prohibit a pension committee under federal or Ontario jurisdiction from holding such an annual meeting in order, at the very least, to inform the members of these same issues.**

The pension committee also has a responsibility to ensure that this meeting is held under adequate conditions, that it will be of interest to the people attending and that it will allow them to get involved by asking all the necessary questions for them to fully understand and also to express their own expectations concerning the management of the plan. The members of the pension committee who represent the members of the plan should ensure that the invitation to and the agenda for the meeting emphasize the information that is important to the members from the financial situation of the plan to the security of their benefits and the use of surpluses. The mere fact that it is necessary properly to inform the members about the main challenges affecting the plan serves as a reminder to the pension committee and the employer that the pension plan must be administered solely in the interests of the members. Thus, any positions taken by the members of the pension committee representing plan members will receive greater support, especially if the committee members already make it a habit to inform the union authorities and the base regularly about what is going on in the pension committee.

It is essential to provide adequate information to the members about their rights as well as about the administration of the pension plan because the pension plan represents their main financial asset (after their home) and their main income security for the 20 or 30 years of their retirement. This is now particularly important, since in recent years, the agencies responsible for ensuring compliance with the law and protecting the rights of pension plan members (the Régie des rentes du Québec and the Office of the Superintendent of Financial Institutions federally) have, in the interests of *self-regulation*, taken an approach that is not very interventionist. This implies that they will intervene or supervise less and less and rely on the rules of transparency currently in place and the vigilance of the pension plan members and the committee to ensure that these rights are respected. At best, they have adopted certain criteria to monitor more closely certain plans that are, by their criteria, more risky. At stake here are the very interests of the members in ensuring that the management of the pension plan will provide them with security for their future benefits and sound administration solely in the interests of the members and the beneficiaries.

