Pensions Dispute Resolution Practice

Disputes Agenda

SUMMER | **2026**



Court decisions

HSBC Bank Pension Trust (UK) Limited v HSBC UK Bank plc 3

3i plc v Decesare 5

Mendes v Slater and Gordon (UK) Limited 7

McKavney v Serco 9

Regulatory proceedings

Northern Foods Pension Scheme settlement 11

Regulator's Determinations Panel makes vesting order to protect members 13

Pensions Ombudsman determinations

Pensions Ombudsman issues guidance on pension overpayments 15

Mr E v Teachers' Pensions 17

Mr S v BMW (UK) Trustees Limited 18

Welcome to the Summer 2026 edition of Disputes Agenda

In this edition, we look at a case on the use of DB surplus for DC benefits and two cases concerning pension rights following a TUPE transfer. We also consider a case concerning restrictions in amendment powers which arose following the Court of Appeal decision in BBC. We have included recent examples of intervention by the Pensions Regulator to protect member benefits, and helpful guidance from the Pensions Ombudsman on overpayment cases. We have also considered Ombudsman determinations on errors in member benefit statements and the duties on trustees in connection with transfers-out.

We hope you find the articles in this edition interesting.



Sarah Opie



HSBC Bank Pension Trust (UK) Limited v HSBC UK Bank plc

The High Court has approved the trustee's decision to amend the scheme rules to introduce a new power to make it clear that the Bank could use surplus for DC contributions in the scheme.

Background

The HSBC Bank (UK) Pension Scheme provides both defined benefit (DB) and defined contribution (DC) benefits, and at the time of the hearing had a surplus of over £2.8bn on a low risk basis. An existing power permitted the Bank to use surplus for DC contributions in certain circumstances, but there was disagreement over whether this was still possible once the scheme had closed to future accrual.

Following negotiations between the trustee and the Bank, an amendment was agreed to introduce a new rule to make it clear that surplus could be used for DC contributions for a period of 4 years. The cost of DC contributions was estimated to be around £150m a year, with surplus expected to still increase over that period after being used for DC contributions.

The trustee applied to Court for approval of its decision to enter into the amendment and a "representative beneficiary" was appointed to represent the interests of members in the case. The representative beneficiary decided not to oppose the trustee's application.

Decision

The Court was clear in its decision that its role was a supervisory one, to confirm that the trustee was acting within the proper scope of its powers and that its decision had been properly made. The Court was not deciding what was the best or fairest use of the surplus or the meaning of the existing rule.

Where trustees seek the Court's blessing of a momentous decision, the Court is considering:

1. whether the trustees have formed an opinion that they should act in a particular way;
2. whether the opinion was one a reasonable body of trustees could properly arrive at; and
3. whether the opinion is invalidated by a conflict of interest.

The Court was satisfied that there was no relevant conflict of interest and that the decision was properly made on the basis of advice. The trustee was entitled to prefer a negotiated solution to a binary litigated outcome, and the amendment was the product of extended negotiations where the trustee obtained enhancements which would safeguard members' accrued benefits.

The Court confirmed that the trustee had considered the views of members, but that the dissatisfaction of members did not invalidate the trustee's decision. A number of issues had been raised by members regarding the use of surplus in this way, but these did not change the Court's assessment of the legal position.

Overall, the decision was one that a reasonable body of trustees could properly reach, and was within the scope of the power for a proper purpose.

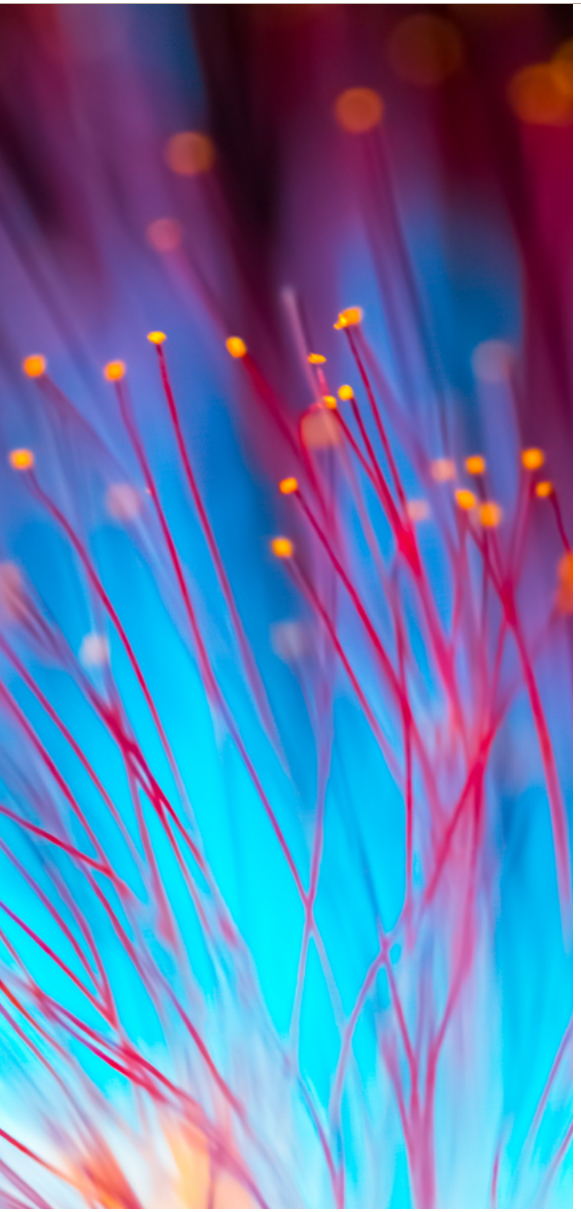
Comments

This is a helpful decision in confirming the common-sense approach the Court will take to blessing applications by trustees. Although not looking at the underlying merits of the use of surplus in this way, it will nonetheless provide comfort to other trustees who are considering a similar use of surplus.

Linklaters acted for the Bank in this case.



Sarah Opie



3i plc v Decesare

The High Court has confirmed that the restriction in an amendment power protecting "accrued rights or interests" did not protect future service rights.

Background

The 3i Group Pension Plan contained a restriction in its amendment power which prevented detrimental changes to *"accrued rights or interests of any Member or other person in respect of benefits already provided under the Plan"*.

The scheme was fully bought-out, with a surplus of around £83 million. In a consultation with members, the trustees had indicated they would be paying all of the surplus to the sponsoring employer, but shortly before taking their final decision the Court of Appeal issued its decision in *BBC v BBC Pension Trust Ltd*. This decided that a restriction protecting members' "interests" prevented detrimental changes to future service benefits.

Before paying the surplus to the company, the trustees therefore wanted to obtain confirmation from the Court over the meaning of the restriction in the scheme's amendment power, given the reference to '"interests". It was accepted by the trustees and company that it would require a final salary link.

Decision

The Court confirmed that the restriction in the amendment power did not prevent future service changes.

The primary basis for the Judge's decision was the meaning of the phrase "accrued rights and interests", and in particular that the word "accrued" applied to both "rights" and "interests". The representative beneficiary had argued that "accrued rights" should be treated as a compound noun, rebutting the normal convention that an adjective governs all of the nouns following it. The Judge disagreed, finding that "accrued" qualifies both words. This was reinforced by the fact the phrase "accrued rights" would be redundant if "interests" covered past and future service.

The representative beneficiary had also sought to argue that the scheme's non-uniform accrual basis meant that members had an "interest" in their future service as well as their final salary. This was because the amount accrued for any particular year would depend on the total number of years' service. The Judge rejected this argument, since it was still possible to calculate the benefits a member had accrued at any point in time, and in either case a member would still accrue a greater benefit if they accrued more years' service.

The Judge confirmed that the phrase "benefits already provided under the Plan" referred to the provision of past service benefits, and not the structural benefits contained within the scheme rules at the time of an amendment.

The Judge referred to various points which had been raised which he did not consider provided much assistance in the analysis:

- the use of "rights" and "interests" in other parts of the scheme rules;
- other cases on restrictions in amendment powers, given the different wording used; and
- references to commercial context or common sense.

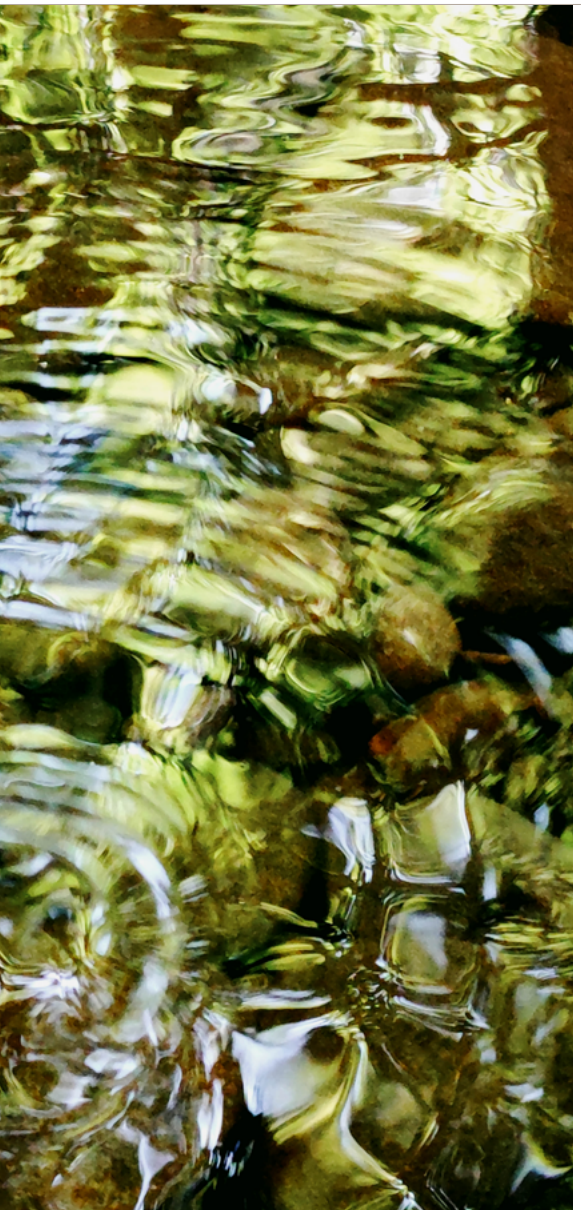
Comments

This case is a useful reminder that restrictions in amendment powers will turn on the specific wording, even if there are similarities to other cases. For other schemes with the same wording to that considered in this case, this will be welcome confirmation that "accrued rights or interests" does not protect future service benefits.

Linklaters acted for the trustees in this case.



Sarah Opie



Mendes v Slater and Gordon (UK) Limited

The recent decision in *Mendes v Slater and Gordon (UK) Limited* provides useful clarification on how limitation periods interact with "*Beckmann rights*" – the enhanced early retirement and redundancy benefits that transfer with employees on a TUPE transfer.

Background: what are *Beckmann* rights?

Under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE), an employee's contracts and associated rights generally transfer automatically to a new employer when a business is transferred. Whilst rights under occupational pension schemes relating to old age, invalidity and survivors' benefits are carved out, there is an exception for enhanced early retirement and redundancy rights – known as "*Beckmann rights*" after the *Beckmann v Dynamco Whicheloe* case – which do transfer, with the incoming employer responsible for honouring them.

Background: the facts

Dr Mendes began working for Nuclear Electric in 1994, joining the Electrical Supply Pension Scheme (ESPS), which provided a valuable redundancy benefit: an annual pension at 1/80th of pensionable salary per year of contributing service, plus a lump sum, payable on or after age 50 with no actuarial reduction for early retirement. Following multiple TUPE transfers, Dr Mendes' employment passed to Energy, Safety and Risk Consultants UK Ltd (ESRC) in June 2012, at which point he joined the Amec Pension Scheme. When ESRC made him compulsorily redundant on 21 May 2017 (at the age of 50 years and 1 month), he received benefits calculated only by reference to his service with ESRC, and not his accrued service with previous employers – i.e. he did not receive benefits on his redundancy which reflected the full value of his *Beckmann* rights.

Dr Mendes instructed solicitors Slater and Gordon, who failed to issue proceedings – or enter into a standstill agreement – before the six-year limitation period expired on 20 May 2023. Dr Mendes issued a claim against SG for professional negligence, seeking the lost value of the underlying claim against ESRC.

Decision

In this preliminary issues trial, Slater and Gordon advanced three limitation arguments in relation to the underlying claim:

- the claim should be treated as a claim against trustees to recover trust property, which would have no limitation period under Section 21(1)(b) of the Limitation Act 1980;
- it was a claim "upon a specialty" under Section 8 of the Limitation Act, giving a 12-year limitation period; and

- alternatively, each underpaid pension instalment gave rise to a fresh cause of action, which would each start a six-year limitation period.

The judge rejected all three arguments. He held that ESRC's obligation was contractual and TUPE-based – to procure for Dr Mendes his Beckmann rights or their substantive equivalent – and that at the date of redundancy there was a breach of this obligation which resulted in immediate loss. The ordinary six-year limitation period for contract and tort claims therefore applied. Treating each payment as a fresh cause of action was described as confusing loss with quantification.

Key points from the case

The key takeaways from this case are as follows:

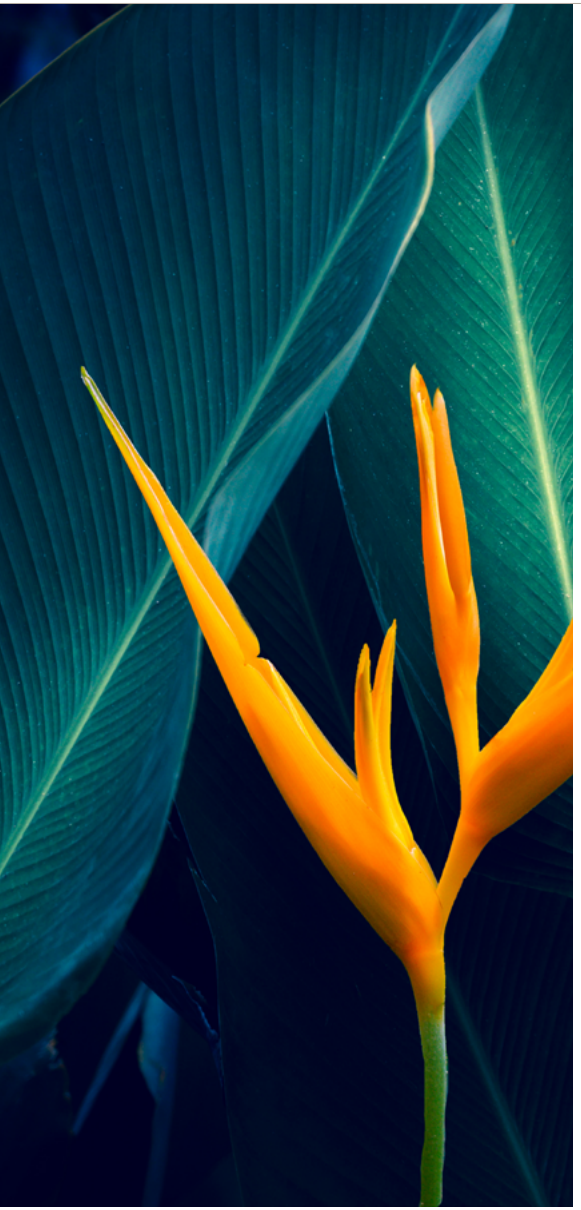
- Six-year limitation period: a six-year limitation period applies to claims against employers for failure to ensure an employee receives their *Beckmann* rights on redundancy, which starts running from the date of breach.
- The Beckmann obligation rests with the employer, not the trustees: trustees who have administered a scheme in accordance with its rules will not face direct liability for an employer's failure to comply with its *Beckmann* obligations.
- A single cause of action: the failure to procure *Beckmann*-equivalent benefits gives rise to one cause of action at the date of breach (in this case at the date of redundancy) rather than a series of fresh causes of action with each underpayment of pension.

Comments

Mendes v Slater and Gordon confirms that *Beckmann* rights – whilst powerful protections for transferring employees – are subject to the ordinary rules of limitation, with a six-year window running from the date of breach. Employers should take steps at the point of any TUPE transfer to identify and properly fund any *Beckmann* obligations, rather than leaving the issue unresolved until an employee is made redundant years later. Trustees, for their part, can take comfort that the Beckmann obligation sits squarely with the employer.



Kate Kerr-Davis



McKavney v Serco

This judgment offers useful guidance for trustees dealing with business transfers, protected pension rights and early retirement claims. It confirms that, without clear wording to the contrary, a TUPE transfer will not usually trigger immediate unreduced benefits simply because active scheme membership comes to an end.

Background

Mr McKavney was a member of the Magnox Section of the Electricity Supply Pension Scheme (the ESPS). He was also a protected person within the meaning of the Electricity (Protected Persons) (England and Wales) Pension Regulations 1990 (the PPR), under which his accrued and future pension rights enjoyed statutory protection. Under the PPR, this protection applies to pension rights under the ESPS or an "alternative scheme", and will only cease to apply if continuity of employment in the industry is broken.

In 2005, Mr McKavney's employment was transferred from Magnox to Serco, and a new Section F was introduced into the Serco Pension and Life Assurance Scheme (the SPLAS) for "Magnox Members". Mr McKavney elected to transfer his ESPS benefits into the SPLAS and became a "Protected Magnox Member". The Rules included provisions on compulsory retirement from service due to redundancy or reorganisation, and benefits where a member's service ended due to redundancy or reorganisation.

In 2012, Mr McKavney's employment was transferred from Serco to Energy Safety and Risk Consultants (UK) Ltd (ESRC), then a subsidiary of Serco. A week later, AMEC purchased ESRC, which then ceased to be a participating employer in the SPLAS and became a participating employer in the AMEC pension scheme (the ASPS).

At that point, Section F members had a right under the PPR to transfer their accrued SPLAS rights to the ASPS, provided they did so within two years. Members were informed that this transfer would be on a like-for-like basis and that, if they exercised the option, they would no longer have a Serco-linked pension in SPLAS. Mr McKavney did not exercise that option. His active membership of the SPLAS ended, he retained his accrued benefits there as a deferred member, and he joined the ASPS for future accrual.

In 2015, Mr McKavney was made redundant by ESRC aged 56. He received an immediate unreduced pension from the ASPS in respect of the benefits accrued since June 2012, but received no early payment of an unreduced pension from the SPLAS in respect of his earlier accrued benefits. The SPLAS trustees' position was that an immediate pension payable before age 60 would only arise if Mr McKavney had been made redundant by Serco, and that this was not a benefit to which he was entitled having been made redundant by ESRC.



Joe Chambers

Decision

Mr Justice Trower decided that the Deputy Pensions Ombudsman had correctly concluded that Mr McKavney had not become entitled to immediate payment of his SPLAS pension either on the sale of ESRC from Serco to AMEC or on his redundancy from ESRC in 2015. The appeal was dismissed.

"Compulsorily retired from Service"

The judge held that the phrase "compulsorily retired from Service" added a specific requirement that the retirement was at the insistence of the employer, through a process that could not be characterised as voluntary.

The concept of the active Magnox Member being compulsorily retired more naturally meant employment coming to an end through the termination of a contract of employment, than of a change of employer through a TUPE transfer of that contract to another employer. In the case of a TUPE transfer, the contract is deemed to continue, not terminate, and the employee is simply faced with a change of employer.

As to "reorganisation", the Court accepted that the term is not synonymous with redundancy, but held that in this context it was directed to a reorganisation leading to dismissal, not a TUPE transfer with continuity of employment.

"Service ended"

The judge confirmed that "Service" having "ended" must mean something different from, and additional to, a member "leaving Pensionable Service". Although Mr McKavney had left Pensionable Service when ESRC was sold to AMEC, his Service had not ended in the relevant sense because his employment continued.

Had he exercised that transfer right within the two-year window, Mr McKavney would have preserved the possibility of an unreduced pension in respect of all his pensionable service on his later redundancy from ESRC.

Comments

Key takeaways from this case for trustees include the following:

- TUPE transfers will not, without more, amount to compulsory retirement: Where employment continues by operation of law, the member is unlikely to have been "compulsorily retired from Service" for the purposes of early retirement provisions of this kind. Trustees should bear this in mind when responding to early retirement claims from members whose active membership has ended through a business transfer rather than dismissal.
- "Reorganisation" must be read in context: In this case, it meant a reorganisation leading to dismissal, not a business transfer under TUPE.
- Defined terms matter: The distinction between leaving Pensionable Service and Service ending may be relevant to whether enhanced benefits are payable.



Northern Foods Pension Scheme settlement

Following regulatory intervention regarding scheme funding, a negotiated settlement was reached in relation to the Northern Foods Pension Scheme, providing a support package to strengthen the employer covenant.

Background

Since 2016, Northern Foods Limited (NFL) was the sole employer of the scheme. NFL was acquired by Boparan Holdings Limited (BHL) in 2011.

From 2018, parts of the NFL businesses had been sold and there had been a number of related party transactions between BHL group companies and associated entities now owned by Boparan Private Office Limited (BPO). These factors, amongst others, led to a review by the trustee and the Pensions Regulator into any potential reduction in the strength of the scheme's direct covenant. This led to the Regulator opening an avoidance case.

Regulatory action

The Regulator issued a warning notice to the trustee, NFL, BHL and BPO setting out the basis for the proposed exercise of the Regulator's anti-avoidance powers, including the power to issue a financial support direction.

Outcome

Following the issuance of the warning notice, BHL and BPO had a number of meetings with the Regulator to discuss a settlement. Led by the trustee, settlement documents were agreed resulting in a support package for the benefit of the Scheme. This package included the following:

- 2 Sisters Food Group Limited (2SFG), the BHL group's main trading entity, replaced NFL as the sole statutory employer.
- A recovery plan for future cash contributions has been put in place that is expected to lead to the scheme being fully funded on the low dependency funding basis.
- BHL entered into a guarantee to cover all ongoing and future liabilities and the full Section 75 debt.
- All of BHL's material subsidiaries have entered into a guarantee to cover the Section 75 debt, in addition to arrangements already in place, including second ranking security.
- The scheme will receive 100% of the disposal proceeds from the smaller of NFL's two remaining businesses and 30% from the larger businesses if sold.
- BPO has entered into a guarantee for contributions due to the scheme from 2SFG and any amounts due from BHL.

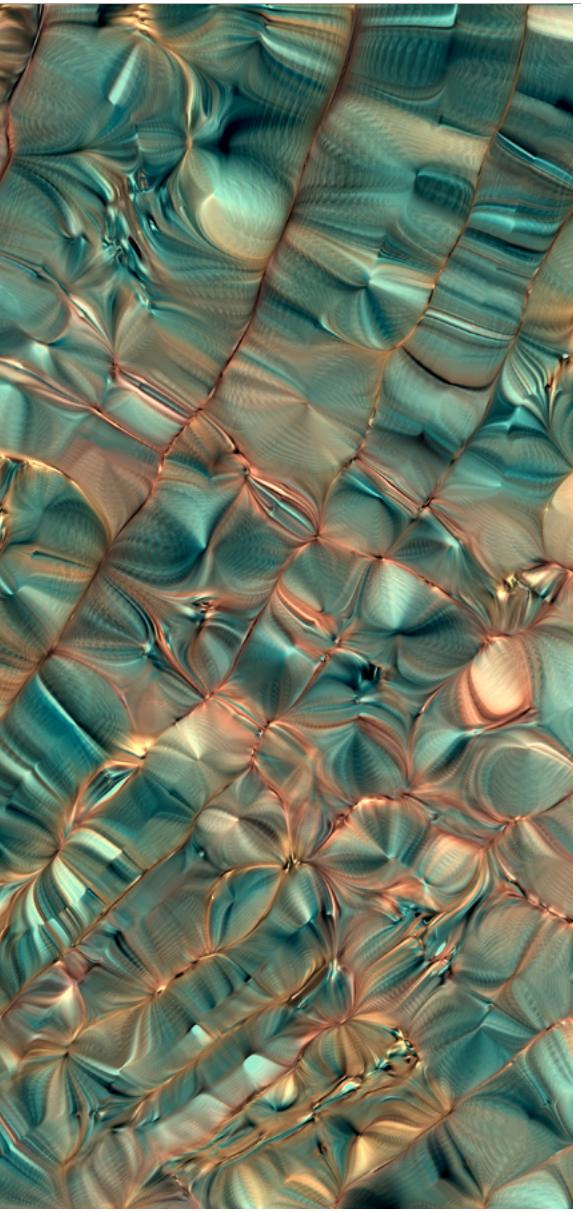
Comments

The settlement represents a positive outcome for members as the scheme's improved funding position provides enhanced direct covenant support and further comfort to members that their benefits will be received in full.

Linklaters acted for the trustee in this matter.



Joshua Pusey



Regulator's Determinations Panel makes vesting order to protect members

The Pensions Regulator's Determinations Panel has made an order under Section 9 of the Pensions Act 1995 vesting the assets of the Vedius Pension Trust in an independent trustee.

Background

In April 2024, the Regulator's executive arm appointed Vidett Governance Services Limited as independent trustee of the scheme because (i) the scheme was a relevant multi-employer scheme but there was only one sole director of one corporate trustee (Vedius Trustee Limited (VTL)) when there should have been at least three trustee directors; and (ii) there were concerns that there was no trustee with the required knowledge and understanding who could act without a conflict of interest. They also ordered that the independent trustee could exercise its powers to the exclusion of other trustees. VTL subsequently resigned as trustee of the scheme.

As the vesting power is a reserved regulatory function, exercisable only by the Determinations Panel, the scheme's assets were not automatically vested in the independent trustee.

The independent trustee subsequently encountered challenges in trying to identify, and secure the transfer of, scheme assets into its control and therefore made the request for a vesting order.

Regulatory action

The Panel determined that it was in members' interests to make the vesting order. To exercise this power, the Regulator had to have exercised the power to appoint a trustee which it did in April 2024.

The Panel noted the following about the alternative ways to obtain a vesting order:

- Seeking a vesting order from the High Court under Section 44 of the Trustee Act 1925: this option was available but would have been an unnecessary expense which may ultimately need to be reimbursed out of the scheme's resources, which appeared to have significantly fallen in value over the years.
- Agreeing a deed of assignment with the former trustees: it was unlikely that the former trustees would co-operate and this would therefore lead to additional costs and delays.

The Panel observed that had it made the original appointment of the independent trustee (rather than the executive arm of the Regulator), a vesting order would have been made at that time in the ordinary course.

Comments

This case is a reminder that scheme assets may not always automatically vest in a new trustee on their appointment, especially where the scheme rules do not provide for automatic vesting of assets when a new trustee is appointed.

It also shows that the route taken to appoint an independent trustee by the Regulator can have significant practical consequences for the transfer of scheme assets.



Joshua Pusey



Pensions Ombudsman issues guidance on pension overpayments

Toward the end of 2025, the Pensions Ombudsman published a factsheet providing guidance on pension overpayments, aimed at helping members understand the key legal issues that arise when a pension has been overpaid. Whilst the factsheet is written with members in mind, it offers useful practical guidance for trustees too and represents a helpful tool when navigating what can be a complex and sensitive area.

What does the factsheet cover?

The factsheet is structured around three broad areas:

General legal position

The general legal principle is that a member is only entitled to benefits which have been properly calculated in accordance with the scheme rules. As a result, an incorrectly paid pension will almost always be reduced to the correct amount going forward, and the scheme will usually take steps to recover the overpaid amount, for example, by deducting amounts from future pension payments over a period of time, or asking the member to repay a one-off lump sum.

Legal defences

In most cases, it is not the member's fault if they have been overpaid, but this does not mean they are entitled to continue to receive a higher incorrect amount, or to keep money that has already been overpaid.

In some limited circumstances, however, a member may not have to repay some or all of the overpayment already received, if they can prove that a legal defence applies. The factsheet identifies three key defences:

- Change of position: this could apply where (i) the member spent the extra money without knowing (and without reason to know) that they were not entitled to it, (ii) they spent it on things they cannot recover value from (such as a holiday), (iii) they would not have spent the money in that way, had they known their pension was lower, and (iv) where it would, in the circumstances, be unfair to require repayment.
- Estoppel: this could apply where the scheme did something that made the member reasonably believe their pension amount was correct (for example, by making clear statements confirming the amount), the member made irreversible financial decisions on that basis, they would suffer if required to repay the money, and it would be unfair in the circumstances to require repayment. Importantly, pension estimates alone will usually not be sufficient to qualify for this defence, and if information from the scheme included a warning that it was not final or binding, it will be unlikely that the member can say they reasonably relied on it.

- Delay (or laches): this could apply where the scheme knew about the overpayment but delayed notifying the member, and that delay caused the member loss or disadvantage. In such circumstances, the member may not have to repay the money that was overpaid during the period of delay. The factsheet also notes that there are legal time limits within which the scheme can make a claim to recover the overpayment.

Evidence and dispute resolution

Where a member seeks to rely on a legal defence, they will need to provide evidence to support their position, including to demonstrate that the money was spent in good faith and would not have been spent had the member known their pension was lower.

The Ombudsman's view is that the pension scheme should support members through its internal dispute resolution procedure (IDRP), including properly exploring the available defences. If the complaints process has been completed without resolution, the member may then be able to make a complaint to the Ombudsman.

Comment

Whilst the factsheet is directed at members, it is also helpful for trustees when managing overpayment cases. The Ombudsman has stated that it would encourage trustees to share the factsheet with members where an overpayment case arises. Doing so will help provide explanations of the legal position from an independent source, and manage member expectations over the tests which need to be met for a defence to recovery of an overpayment.

Overpayment cases require careful handling by trustees, since in many cases members will feel that it is unfair they are being asked to repay amounts which have arisen due to the trustees' error. The Ombudsman's factsheet provides a helpful starting point and a clear framework for approaching these situations.



Joe Chambers



Mr E v Teachers' Pensions

Background

The member was in the Teachers' Pension Scheme and provided with regular estimate of benefit statements:

- In the May 2012 statement, his pensionable service was shown as 25 years and 179 days (up to 31 March 2011).
- The February 2014 statement showed his pensionable service as 32 years and 178 days (up to 31 March 2013).

The scheme had a system error from 2013 that overstated Mr E's pensionable service. In March 2014, Mr E telephoned the scheme to check the figures, and he was reassured by two call handlers that the higher service figures were correct. Relying on this information, Mr E left his senior teaching position in 2015 to take early retirement.

Mr E was made aware of the errors in the calculation of his pension benefits in late March 2020 and he said that this caused a major gap in his financial planning and he would be approximately £3,000 a year worse off, and his lump sum around £8,500 less than anticipated. Mr E said he would have to work longer to support his outgoings, and the error had a negative effect on his mental health.

Decision

There was no dispute of the maladministration on the part of the scheme by providing the inaccurate information about Mr E's benefits. The Pensions Ombudsman found that the scheme had assumed responsibility for the accuracy of the information by giving specific reassurances over the phone, despite disclaimers on written statements. However, the scheme could not provide a benefit which it did not have the power to provide. That said, Mr E had a claim against the scheme in negligent misstatement, and he had demonstrated that he had sustained loss as a result.

The scheme was ordered to pay monetary compensation to put Mr E in the position he would have been in if he had stayed in employment until 31 August 2018. The calculation would include the difference in pension benefits, with 80% of the net loss paid with appropriate tax adjustments. Mr E was also awarded £1,000 for distress and inconvenience.

Comments

This case shows that a member can claim for financial loss through reasonable reliance on misstatements, and also emonstrates the approach the Ombudsman will take to calculating that loss.



Mark Blyth



Mr S v BMW (UK) Trustees Limited

Background

Mr S was a member of the BMW (UK) Operations Pension Scheme, a DB scheme. In April 2014, Mr S appointed Henderson Carter Associates Limited, an independent financial advisory firm, to assist with a potential transfer of his benefits. At the time of the transfer, Mr S was unemployed and in receipt of Employment Support Allowance due to a medical condition.

In October 2014, Mr S signed transfer request forms to transfer his benefits to the Uniway Systems Retirement Benefit Scheme. The scheme administrator, Aon Hewitt, undertook due diligence including checking the receiving scheme's HMRC registration status and obtaining clarification from the receiving scheme's administrator about how Mr S could join an occupational pension scheme despite not being employed by the sponsoring employer.

Mr S was provided with the Regulator's Scorpion leaflet and signed declarations confirming he had read and understood the pension liberation warnings. The transfer of around £119,000 was completed in April 2015. In January 2018, it was established that the receiving scheme's underlying investments had been severely impacted, and Mr S subsequently received £50,000 from the Financial Services Compensation Scheme due to poor advice from the IFA.

Mr S complained that the trustee failed to carry out sufficient due diligence checks before transferring his benefits and that he did not have a statutory right to a transfer as he was not an "earner" at the time.

Decision

The Ombudsman found that, although Mr S's transfer request was made outside the three-month guarantee period for a statutory transfer, the trustee was entitled to accept the request under the scheme rules, which permitted discretionary transfers on the same basis as statutory transfers where the member does not have or exercise a statutory right.

On the question of whether Mr S needed to be an "earner" to acquire "transfer credits", the Ombudsman departed from the interpretation assumed in Hughes v Royal London, where it was agreed between counsel but not decided that the member must be an "earner", and found instead that the definition of "transfer credits" as "rights allowed to an earner under the rules of an occupational pension scheme" refers to the type of rights that may be acquired rather than requiring the transferring member to be an earner. The transfer was therefore permitted under both the scheme rules and the relevant legislation.

On due diligence, the Ombudsman found that the trustee had no legal duty to carry out the due diligence suggested in the Regulator's 2013 and 2014 action packs, which were non-statutory guidance. The trustee's only duty was to ensure the transfer met the requirements under the scheme rules and the relevant legislation. The trustee did not voluntarily assume a duty of care to carry out additional due diligence, particularly given that Mr S was being advised by an FCA-regulated IFA and had confirmed reading the Scorpion leaflet.

Comments

This was a favourable decision for the trustee in circumstances where they failed to follow the guidance of the Regulator. It also marks a departure from previous Ombudsman determinations on the due diligence recommended by that guidance.



Mark Blyth

Contacts



Sarah Opie
Counsel, Head of Pensions Dispute Resolution, London
Tel: +44 78 2484 8301
Mob: +44 2074 563 458
sarah.opie@linklaters.com

This content is intended merely to highlight issues and not to be comprehensive, nor to provide legal advice. Should you have any questions on issues reported here, please get in touch. © 2026 Linklaters.

Linklaters LLP is a limited liability partnership registered in England and Wales with registered number OC326345. It is a law firm authorised and regulated by the Solicitors Regulation Authority. The term partner in relation to Linklaters LLP is used to refer to a member of the LLP or an employee or consultant of Linklaters LLP or any of its affiliated firms or entities with equivalent standing and qualifications. A list of the names of the members of Linklaters LLP and of the non-members who are designated as partners and their professional qualifications is open to inspection at its registered office, 20 Ropemaker Street, London, EC2Y 9AR, England or on www.linklaters.com and such persons are either solicitors or registered foreign lawyers. Please refer to www.linklaters.com/regulatory for important information on our regulatory position.

CD117_F/05.26