

Case tracker: key pensions cases

August 2021

Case Summary	Status
<p><i>Punter Southall Governance Services Ltd v Hazlett ('Axminster')</i> [2021]</p>	<p>The High Court has ruled on a number of issues relating to limitation, forfeiture and arrears of pensions. The ruling touches on several of the complex issues involved with GMP equalisation (see the <i>Lloyds</i> decisions referred to below), as well as wider benefit rectification exercises: read more.</p>
<p><i>Hughes v Board of the Pension Protection Fund</i> [2021]</p>	<p>In 2020, the High Court ruled that the Pension Protection Fund (PPF) compensation cap was discriminatory on the grounds of age contrary to EU law, and that the relevant provisions in the Pensions Act 2004 must be disapplied. The Court of Appeal has now dismissed an appeal against that finding, although it has allowed the PPF's appeal against some aspects of the earlier decision: read more.</p> <p>It is not currently known if one of the parties will seek to appeal the decision.</p>
<p><i>Lloyds Banking Group Pensions Trustees Ltd v Lloyds Bank plc and others</i> [2020]</p>	<p>This is the High Court's second major ruling in relation to the <i>Lloyds</i> case on GMP equalisation – for more information on the first decision, see next item.</p> <p>This decision considered issues related to past transfers out. The judge ruled that where a statutory transfer value was underpaid due to a failure to take equalisation into account, the trustees did not properly perform their statutory duty, and did not benefit from a statutory discharge (or, based on the scheme documentation in this case, a discharge based on the scheme rules or various example agreements with members). Claims would not be time-barred under statute. To read more about the decision, including in relation to non-statutory transfers and bulk transfers, click here.</p>
<p><i>Lloyds Banking Group Pensions Trustees Ltd v Lloyds Bank plc and others</i> [2018]</p>	<p>The High Court has ruled that the GMP element of a pension is pay, so it is unlawful to pay unequal benefits as between men and women, and trustees have a duty to equalise scheme benefits for the effects of unequal GMPs.</p> <p>The court ruled that, if multiple equalisation methods produce equality of benefits, the method which results in 'minimum interference' with the rights of any party should be chosen. In this case the sponsor was entitled to insist on the cheapest method.</p> <p>The court also ruled that there is no applicable limitation period but, if scheme rules provide for forfeiture of unclaimed benefits after six years, this may operate to restrict the ability of beneficiaries to claim back payments. A supplementary judgment provides further guidance on GMP conversion. We acted for the trustee in this case. Click here for more detail on the ruling.</p>
<p><i>The Board of the Pension Protection Fund v Dalriada Trustees Limited and others</i> [2020]</p>	<p>The High Court has clarified some issues concerning the operation of the Fraud Compensation Fund (FCF), including that claims arising from pension scams may be eligible for compensation. Due to the quantum of expected claims, the industry levy funding the FCF may be increased in future – the government is planning to consult on levy rates in autumn 2021.</p>

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