

In this final edition of Pension Snippets until the end of January 2008, I look at –

Goodwill to all men and responsible investors

<http://www.uksif.org/uksif?1=1&blockid=1402028>

Yet again the public sector seems to be leading the way as long term responsible investors (LTRI) and in respect of environmental, social and governance issues (ESG). How does your scheme rate in terms of (a) knowledge and understanding of the issues, (b) trustee training, (c) stakeholder consultation and (d) disclosure?

By visiting the above link you can see how your scheme ranks on LTRI and ESG. Only one pension scheme, the Environment Agency Pension Fund, gets full marks in the rating, but more importantly the criteria for engagement and progress are set out to allow everybody to see what is arguably required. In the 1980s many investment managers would dismiss any thought of shareholder action (apart from selling their shares), in the 1990s “engagement” became the norm, perhaps this decade will see responsibility being finally and completely taken.

Documentation Errors

<http://www.bailii.org/cgi-bin/markup.cgi?doc=/ew/cases/EWHC/Ch/2007/2900.html&query=EWHC+2900&method=all>

This case involved Smithson and seven others including Siemens plc, in which they sought to correct a mistake in the way that the Siemens Fire Safety & Security Pension Scheme had equalised normal retirement ages. The High Court rejected the claim as “rectification by the back door” because there was a time bar, dismissed the submission that they could use the so called law of mistake (*Hastings-Bass*) and just for good measure threw out a counter claim on the validity of adopting an age 65 normal retirement date post *Barber v GRE* (1990).

This is another example of the courts enforcing the Scheme Rules as executed. The Court backed the deferred benefit members with favourable early retirement rights as documented in the Rules. Have you checked your amendments?

Pension Ombudsman decision overturned

<http://www.bailii.org/cgi-bin/markup.cgi?doc=/ew/cases/EWHC/Ch/2007/2871.html&query=EWHC+2871&method=all>

In April 2007 the Pensions Ombudsman found in favour of Mrs. Susan Gosling in her dispute with the Royal Mail Pensions Trustees Limited. However last month High Court overturned the Ombudsman's decision, backing the pension scheme trustees as having correctly acted in accordance with the scheme rules.

Briefly, in 1997 Mrs. Gosling started to pay additional contributions to secure additional service. Mrs. Gosling worked part time. She also took independent financial advice and received an illustration of the additional benefits at retirement. Being part time there was however a crucial difference between the quoted pensionable service, effectively just a time measure, and her reckonable service which went into the benefit calculation and which made allowance for the proportion of the working week actually employed. The Appeal backed the use of scaled down reckonable service despite the obvious impression given by the illustration (which was not considered a binding contract).

Yet again the message is that the Scheme Rules have supremacy. Scheme booklet and illustration references (small print) are crucial for both members and financial advisers. I hope that the season of goodwill will not prompt the Royal Mail Pension Scheme to add to Mrs. Gosling's woes with the award of their costs.

<http://www.dwp.gov.uk/mediacentre/pressreleases/2007/dec/pens51-171207.asp>

And finally; Peter Hain has announced (see above) an increase in the compensation provided by the Financial Assistance Scheme (FAS) to compensate the 140,000 victims who lost their employer-sponsored pensions (pre April 2005). The benefits are thankfully now similar to those provided by the Pension Protection Fund (PPF), which protects benefits post April 2005. Interestingly the very high commitment (£12.5bn) in “cash terms” is qualified or explained in lower “net present value” terms (£2.9bn). I wonder if someone threatened to similarly quantify the immediate vesting ministerial pensions in cash terms, with the question “Who wants to be a millionaire?”

May I wish you all a very Merry Christmas and a Happy New Year?

As always, for further comment, assistance, advisory or trustee services, contact me on 07714 064964 or via allan@acmca.co.uk Feedback on Pension Snippets is always welcome. For further details, the full CV, occasional lecture notes and published articles and previous Snippets - visit the web site at www.acmca.co.uk