

Another busy month in the pensions world, I touch on two snippets that haven't exactly made the headlines.

Trustee Litigation

<http://www.scotcourts.gov.uk/opinions/2008CSOH78.html>

On 23rd May, Lord Glennie gave a further decision in the long running Court of Session trustee and adviser negligence case involving the Blyth & Blyth Pension Fund which collapsed in 2002 with a £6m deficit. The pension fund was small and the deficit was so large that deferred benefit members faced zero payments and pensions in payment were reduced by 40%. Thankfully the scheme is eligible for the Financial Assistance Scheme (FAS). My Pension Snippets of May 2003, July 2004 and April 2007 refer. Those more qualified than me will be better able to comment on the legal aspects of the claim and the circumstances surrounding adviser and trustee liability. From a lay person's perspective I did however note –

- Lord Glennie's comments about not ignoring the Faculty of Actuaries' Disciplinary Case against the Scheme Actuary (November 2007 Snippets) and the finding of professional negligence.
- The high burden of proof required in action against trustees – negligence is not sufficient, specific evidence of recklessness, disregard for member interests or gross negligence is required.
- In respect of alleged investment losses; (1) the generic actuarial advice to match assets and liabilities was clear over the years, (2) the actuaries made clear they did not give advice on the timing of investment switches, (3) the trustees allegedly dithered as the market collapsed in 2002 and, ignoring FAS compensation, the members lost out. Is there a comparable gap in responsibilities and accountability in your pension scheme?

Whilst the case against the trustees was dismissed, the case continues against the Scheme Actuary and his employers. Whilst the current trustees are still driving the case, the main beneficiary will be the FAS, i.e. you and me, the tax payer!

Promoting Actuarial Quality

<http://www.frc.org.uk/images/uploaded/documents/DP%20Promoting%20actuarial%20quality.pdf>

Again from 23rd May. The above 80 odd pages on promoting actuarial quality may not be at the top of many reading lists. The paper however covers all areas of actuarial work – life assurance, pensions and general insurance and the framework in which pension actuaries work is fundamental to the operation of UK pension schemes. Section 7 of the paper in particular, provides a very useful and independent view of “where we are” in the pensions actuarial world as the new regulator sees things! A potential item for your governance agenda?

The Financial Reporting Council (FRC) is the UK's independent regulator responsible for promoting confidence in corporate reporting and governance, specifically setting, monitoring and enforcing auditing and actuarial standards and overseeing the regulatory activities of the professional accountancy and actuarial bodies. The FRC's priorities in the area of pensions are –

- Overseeing education, training, CPD, ethical and conduct standards, compliance and discipline.
- Reviewing the adequacy of monitoring and scrutiny of pensions work given the importance of the major consultancies.
- Reviewing the actuarial profession's proposals for handling conflicts of interest.

The latter point appears to have caught most subsequent comment. So as you fine tune your Trustees' Conflict of Interest Policy, don't forget the potential conflicts of your advisers. Perhaps you should just anticipate the comfort of a second or independent opinion!

And finally; I understand on good authority that a glowing reference for a young student from the manager at his summer job in a call centre was slightly marred by the manager's recollection of a first day question – When do I stop answering calls with “good morning” and start saying “good afternoon”?

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