

The Actuarial Profession
making financial sense of the future

Current issues in pensions
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Current legal issues

1 November 2012

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Agenda

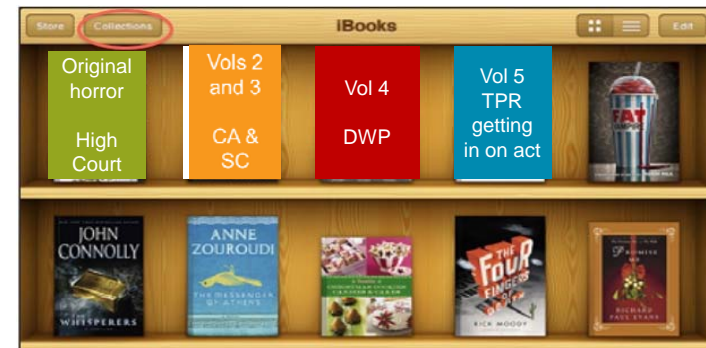
- MP benefits
- Test-achats
- GMP Equalisation
- Incentive Exercises
- RPI
- Dates for your diary

Hybrid Schemes

A Nightmare
ON BRIDGE STREET

12

Hybrid Schemes



13

Hybrid Schemes

- PA 2011, section 29
- Adds section 181B to PSA 1993 definition of money purchase benefits
- Assets and liabilities must match, only annuities held by an insurance company are exempt
- Amended from 1 January 1997
- Regulations will add detail, see section 30
- So, watch this space.

14

Hybrid Schemes



15

Hybrid Schemes



If DB underpin bites = DB

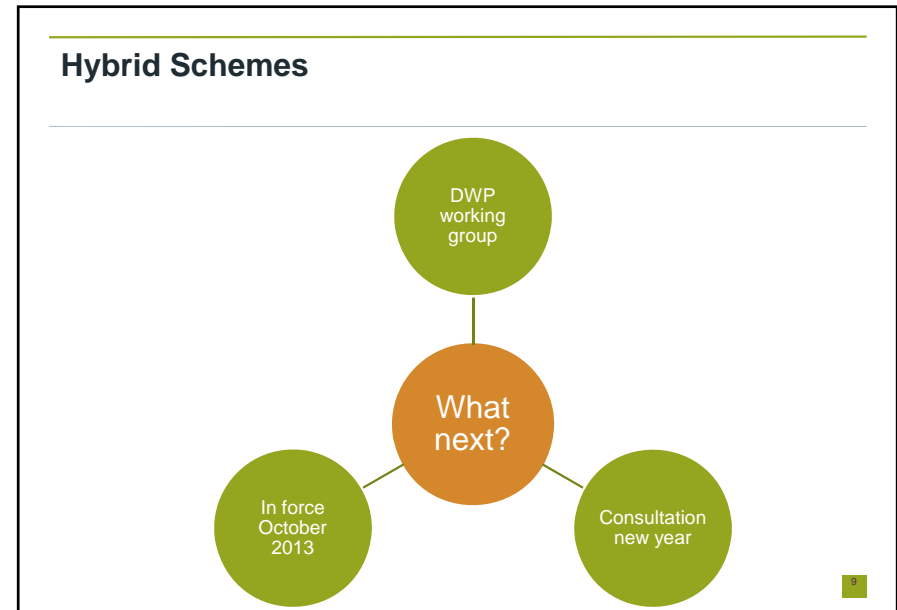
If DC underpin bites = DC

6

Hybrid Schemes



7



Test-Achats

- 1 March 2011 (ECJ)
- Exemption for use of actuarial factors to set insurance premiums would not be allowed
- Gender directive

10

Test Achats

- Transitional provision?
- ECJ gave Member States until 21 December 2012
- Tied in with exemption expiry
- New contracts only



11

Test-Achats

Gender Directive	Equal Treatment Directive
Services (insurers)	Employment (schemes)
Exemption	Exemption
Declared invalid	Not discussed

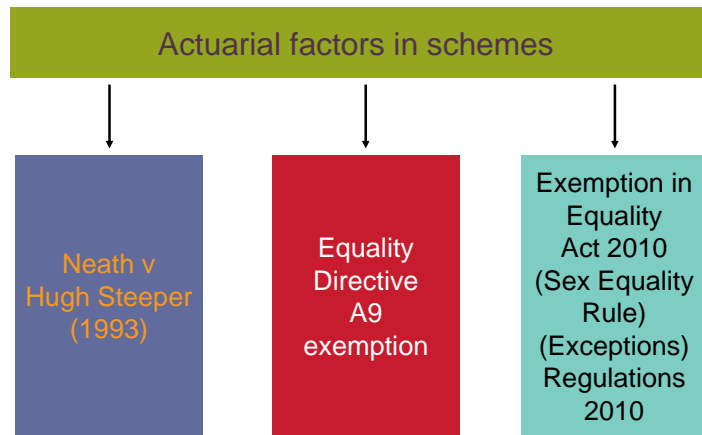
12

Test-Achats

- What about occupational pension schemes?
- Two key issues
 - annuity purchase
 - actuarial factors embedded in pension schemes

13

Test-Achats



14

Test-Achats

Annuity purchase

- Bulk annuities
 - Trustee not individual (no discrimination)
 - Bulk premium, members benefits unaffected
 - All about securing a defined benefit, specific income stream
 - Equality of input, not output
 - All good arguments why you can continue to use sex based factors
- DC In-scheme pensions
 - Not covered by judgment?

15

Can you use sex based factors?

	In scheme	Provider (indiv)	Bulk
Personal pension	N/A	No	N/A
GPP	N/A	No	N/A
DC trust	Yes	Yes?	Yes?
DB	Yes	Yes	Yes

16

Test-Achats

- What should trustees do?
- Wait and see re. actuarial factors
- But should take Test-Achats into account if looking at factors
- Another test case?

17

GMP Equalisation



Just when you thought it was safe to go back
in the water!

GMP Equalisation

- Entitlement to an earnings-related addition to their basic state pension, called the State Earnings Related Pension Scheme (SERPS) / replaced by contracted-out benefits.
- The GMP is a component of a member's total scheme pension.

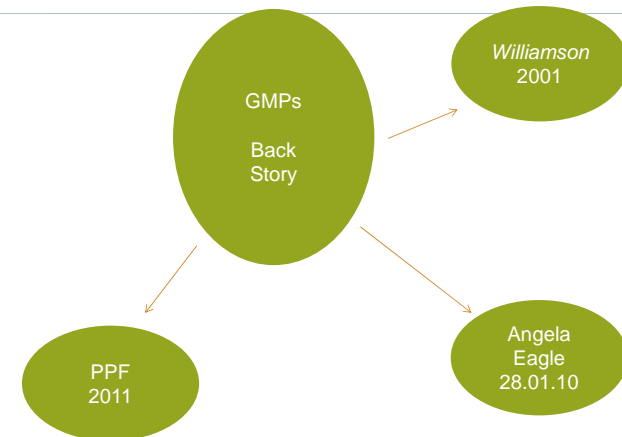
GMP Equalisation

The method of calculating GMPs is set out in legislation. It is possible for the GMP component of a scheme's benefits to be unequal between the sexes because:

- GMPs accrue at different rates for men and woman;
- GMPs are payable from different ages (65 for men, 60 for women); and
- a member's GMP increases at a different rate from their scheme pension.

120

GMP Equalisation



121

GMP Equalisation

- Consultation on draft regulations.
- Possible method for equalising pensions for the effect of the GMP.
- Consultation closed 12 April 2012.
- No response available yet.

122

GMP Equalisation

- The DWP has concluded that schemes are obliged to equalise overall scheme benefits “for the effect” of GMPs which accrued between 17 May 1990 and 5 April 1997.
- In the Government’s opinion, under EU law, there is no need for an opposite sex comparator when considering any inequality in GMPs.
- If the DWPs method of equalisation is adopted, there will be no obligation on schemes to use it.

123

GMP Equalisation

GMPS need to be
equalised

1.24

GMP Equalisation

GMPS don't need to be equalised

1.25

GMP Equalisation

GMP's are Social Security
substitute benefits

Not "pay"

Therefore not protected
by Article 157

No equal treatment
required

126

GMP Equalisation

Objective Justification

Material difference other
than sex

State benefit different
unjustified

Birds Eye Walls not
relevant

127

GMP Equalisation

A possible method for equalising pensions for the effect of the Guaranteed Minimum Pension

Part of the consultation on draft regulations
January 2012

DWP Department for
Work and Pensions

128

GMP Equalisation

- The DWP's possible method relies on a comparison between a member's GMP (under the scheme rules and the relevant legislation) and their GMP had they been of the opposite sex.
- Each year, the scheme would then pay the member the higher of:
 - The amount they would receive under the scheme rules; and
 - The amount they would have received under the rules were they of the opposite sex.
- If entitled to their pension earlier had they been a member of the opposite sex then the pension "should be put into payment at that earlier age"

129

Incentive Exercises

INCENTIVE EXERCISES FOR PENSIONS

A CODE OF GOOD PRACTICE

JUNE 2012

www.incentiveexercises.org.uk

Disclaimer
The Code is for guidance only and does not purport to constitute legal advice. The Code is not exhaustive and nothing in the Code can be relied upon as evidence of compliance with any other legal or regulatory requirement. The Code relates to circumstances prevailing at the date of its original publication and may not have been updated to reflect subsequent developments.
Following the Code does not release a party of its legal or regulatory obligations and following the Code may not prevent a claim being brought against a party.

30

Incentive Exercises

- Non-statutory code of “good practice” was published on 8 June 2012.
- Described as a voluntary code of good (as opposed to “best”) practice but looks compulsory.
- For example, the Code states that the authors “anticipate that all future [IEs] will follow the spirit and principles of the “Code” and that they “do not expect employers, trustees or their advisers to look for creative ways to work around the Code”.
- TPR will review its current guidance with a view to supporting the Code.

31

IE

The Code defines an IE as “an invitation or inducement...provided to a member to change the form of their accrued [DB] rights”:

- with the objective of reducing risk or cost for the pension scheme or sponsor(s); and
- Where the invitation or inducement is not ordinarily available to members of the pension scheme.

134

IE

- “Transfer Exercises” – for example, involving a transfer out of a DB scheme on an enhanced basis or in return for some other inducement (as distinct from a normal individual transfer request).
- “Modification Exercises” – for example, a pension increase exchange exercise (involving an enhancement to pension income in return for surrendering all or part of future pension increases where this is not a standard option at retirement).

135

IE



134

IE: Trustee Advice

Issues for trustees:

- Data protection;
- Conflicts of interest;
- Legal basis for incentive exercise; and
- The extent to which they should satisfy themselves that the offer's design, communication and processes for giving advice are appropriate for members.

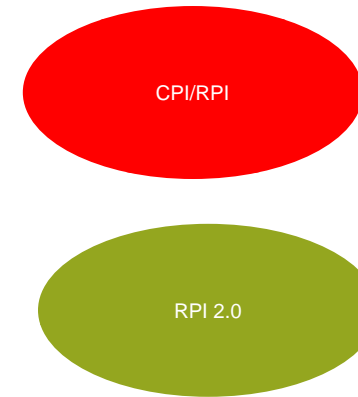
135

IE

- The idea is that an (as yet unidentified) independent industry body will own, maintain and monitor the Code.
- Legislation in the wings according to Steve Webb
- Scheme Return might require details

136

RPI 2.0



137

RPI 2.0



38

RPI 2.0

Economy tracker: Inflation

Inflation | GDP | Jobs | Interest rates | House prices

Inflation 2000–2012

Percentage change over 12 months



Source: ONS

39

RPI 2.0

CPI – geometric averages – no housing costs

RPI – arithmetic averages – includes housing

GAP = 1.3% - 1.5% (OBR)

40

RPI 2.0



41

RPI 2.0



42

RPI 2.0

- If changed RPI → CPI then up to 1% change
- What effect on liabilities?
- CPI quoted as 15%

43

RPI 2.0

Benefits:

- Check the trust deed and rules
- Many benefits would change automatically if specify RPI (same lottery as with CPI)
- What about those which give trustees option to move if index changed/discretion to use different index?
- Other scheme specific terms

44

RPI 2.0

Investment:

- Index linked gilts: BoE asked to comment as may be “fundamental change” triggering redemption
- Liability matching issues

45

RPI 2.0

Timeline

8 October – consultation
30 November – consultation closes
January 2013 – response
March 2013 – implementation

46

Dates for your diary

- White paper (State Pension & DA) – mid November?
- Finance Bill – 11 December 2012
- Gender neutral pricing in force – 21 December 2012
- GMP equalisation – by end of the year ?
- MP Benefits – new year
- RPI – new year

47

Upcoming cases

Supreme Court

- Bloom v TPR – 14 May 2013
- Pitt v Holt/Futter v Futter – permission to appeal granted

Court of Appeal

- Raithatha v Williamson – Autumn 2012
- ITS v Hope – permission to appeal applied for

46

Upcoming cases

High Court

- IBM v Metcalfe – February 2013
- BT Trustees v BT – permission to appeal granted

ECJ

- Wheels/NAPF – awaiting judgment (hearing date 12 September)

47