GMB UNION

March 2024

Pensions Bulletin

Judicial Review

I have advised previously that the GMB and other Trade Unions are taking the government to court seeking a return of the pensions fund surpluses that the government utilised to pay for the McCloud remedy.

The hearing was held in the Court of Appeal between 20th and 22nd February. Our solicitors have advised that they feel it went reasonably well. Judgment is reserved and a likely timeframe of 1-2 months before the final judgement is realistic. I will advise further as soon as I am able.

Changes to the NHS Pension Scheme

The Department of Health & Social Care have published their response to the consultation on proposed changes to the NHS Pension Scheme from 1 April 2024. The consultation outcome is available to read online at:
https://www.gov.uk/government/consultations/nhs-pension-scheme-proposed-policy-changes-for-april-2024

In summary, the response confirms:

- Implementation of a 6-tier contribution rate table with relevant thresholds uplifted by CPI inflation
- A new indexing method where the earning thresholds for paying certain contributions rates each April will increase in line with CPI inflation measured in the previous September. To ensure most members are protected against drifting into paying higher contributions because of annual pay awards, DHSC will apply a 'better of' test and further increase these thresholds in line with the Agenda for Change pay award in England if that is higher than CPI. The upper threshold for the first tier will not be increased by either method, as is the case now.
- Implementation of the new employer contribution rate of 23.7%, plus the existing 0.08% scheme administration charge.
- Permanent removal of the pension abatement rules for special class members.
- Amendment of the 2015 Scheme definition of overtime to provide that additional hours worked by members up to full time are pensionable (except where a member has taken partial retirement in the preceding 12 months).
- Extension of eligibility for partial retirement to 1995 Section members who have reached maximum pensionable service.
- Members who take unpaid carer's leave will be treated as having continued in pensionable service during the time that they are absent from work.

The Local Government Pension Scheme Rule of 85

- If you were a member of the LGPS at any time between 1 April 1998 and 30 September 2006, you may be protected under the 85-year rule.

- You satisfy the 85-year rule when your age and length of LGPS membership add up to 85. (Your age and Scheme membership are both measured in full years for this purpose). If you work part time, your membership counts towards the 85-year rule at its full calendar length

- The 85-year rule will apply if you are over age 60 when you retire. If you fully retire between age 55 and 60, the 85-year rule will not automatically apply and your benefits will be reduced. Your employer has discretion as to whether to allow the 85-year rule to apply.

- If you take flexible retirement, the 85-year rule will apply to the benefits you have built up to the date you first take flexible retirement, even if you are under 60. The 85-year rule will not protect any benefits you build up after you first take flexible retirement.

- What the 85-year rule means for you depends on your age, the date you meet the 85-year and the date you take your LGPS benefits. If you are protected:

    - and you take your benefits after you satisfy the 85-year rule, some or all of your benefits will be paid without reduction

    - and you take your benefits before you satisfy the 85-year rule, your benefits will be reduced but the early payment reduction will be lower than the normal reduction that applies to a member who is not protected.

- The rules governing how the 85-year rule works and the level of protection you will get are complex. If you are thinking of retiring, you should **contact your pension fund** for an estimate of the benefits you will be entitled to. If you are thinking about flexible retirement, you should contact your employer to check their policies on flexible retirement.

2024 Spring Budget

There was not much in last week's budget that concerned. However, the 2% reduction in National Insurance contributions will reduce the cost savings of those employers operating salary sacrifice for their employees' pensions.

On the issue of value for Defined Contribution (DC) scheme members, the budget proposed:

- Requirements for schemes to publicly disclose their asset allocation breakdown and historical net investment returns of their default funds
- Increased powers for The Pensions Regulator and Financial Conduct Authority to deal with schemes delivering poor value for members. Measures may include closing those schemes to new entrants and, if necessary, winding them up.

The FCA will consult on this in spring, with the aim of enforcing the new disclosures by 2027.

Meanwhile, the Government remains committed to its long-term goal of exploring a lifetime Defined Contribution provider model (see below) * and it also confirmed its commitment to maintaining the triple lock on the State Pension.

*A proposed 'lifetime provider' or 'pot for life' model, where employees could compel their employer to pay into a pension of their choice, rather than the workplace pension that their employer offers. This could end the situation where people accumulate lots of pension pots over their lifetime and lose track of them but

- It may be difficult for payroll departments
- It re-introduces the direct (mis)selling of pensions to individuals
- It assumes detailed pensions knowledge

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