

## Death benefit payments – Pension Trustee Decisions

In the recent case of **Punter Southall Governance Services Ltd v Benge [2022] EWHC 193 (Ch)** the Court was requested to approve, following the death of a member of a scheme, the decision of a trustee to pay a death benefit from the assets of the scheme to the deceased member's partner (as his dependant), who was also a member and trustee of the scheme.

This case is important as it addresses the circumstances under which a Court may refuse to approve a discretionary decision of pension scheme trustees, and the approach the Court should take in respect of beneficiaries opposing decisions of pension trustees, which principles are relevant under Isle of Man law. Below we set out the salient points which were addressed by the Court.

Was the decision one which a reasonable trustee could properly have arrived at in light of the information available at the time?

- The Court referred to the decision of **Simmons v White Brothers** which held that a dependant is someone who is dependent on another person *“for the ordinary necessities of life, having regard to his class and position in life.”*
- Held that *“Necessaries of life”* in a legal context are wider than ordinary “necessities of life”, such as food, water and shelter, and that the test will be fact sensitive.
- Held that, applied to the evidence, the opinion and decision reached by the trustee was reasonably arrived at and that the deceased member's partner was a dependant.

Was the decision vitiated by a conflict of interest of the trustees?

- Held that there was an inherent conflict of interest of the deceased member's partner.
- Although this conflict was properly managed and it was accepted that she did not participate in making the decision, it was raised that she failed to perform her duty as a trustee by failing to put all information required for making an informed decision before the Court.
- This argument was dismissed and it was held that the conflict was identified and reasonable steps were taken to manage it, the trustee did not treat her as a trustee but as a member of the scheme, freezing her out of the decision, and resulting in a decision free of conflict.

Did the trustee act properly in refusing to reconsider the decision, alternatively pursuing the court application, in light of the information provided to them since the decision was made?

- Serious allegations were made against the deceased member's partner in relation to her abusing of the deceased's mental state leading up to his death, which it was argued the trustee was under a duty to consider but failed to.
- Held that no proper attempt had been made to support the allegations made, and had evidence been put forward the trustee would have been obliged to take that into account.
- Held further that these allegations could have been pursued during the lifetime of the member before the Pensions Ombudsman.
- Confirmed that the limited question which the trustee is required to answer in the affirmative is whether the partner was dependent or interdependent on the deceased member for all or any of the necessities of life.
- Held that the court does not forensically examine from the start of the process, but considers the final decision and asks itself whether there is a sufficiency of evidence to support the decision. The trustee had taken account of only relevant matters and reached the decision squarely within the range of decisions a reasonable trustee could have made.



Find the full case here: <https://www.bailii.org/ew/cases/EWHC/Ch/2022/193.html>

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