

DQ Pensions Case Alert: What does the recent BBC decision mean for Isle of Man defined benefit pension schemes?

The High Court in London has recently ruled against the British Broadcasting Corporation's ("BBC") proposal to limit the ongoing costs of funding the BBC Pension Scheme (defined benefit scheme) (the "**Scheme**") by the curtailment or removal of 'future service benefits' which have not yet been earned by employee members of the Scheme (see full case here: [\[2023\] EWHC 1965 \(Ch\)](#)).

The court was asked to determine the scope of the amendment power in the Schemes rules which gave the trustee a wide power to amend subject to, amongst others, the proviso that no amendments may be made in respect of 'Active Members' "*whose interests are certified by the Actuary...*" The main issue was whether "*interests*" included prospective 'future service benefits' of 'Active Members' and, if so, if the proposed curtailment or removal thereof affected those interests.

Noting that each case will depend on the terms of the specific scheme in question, the High Court held that, on a 'natural' enquiry, the interests of the 'Active Members' would be affected by the proposed amendment and that the protections should not be limited only to benefits which have already been earned. The court held in this regard that the interests of 'Active Members' included the terms of the trust deed and rules of the Scheme not being amended in a manner which affects the basis on which such members accrue benefits in the future.

Whilst the BBC case may be subject to appeal in the future, case law from the English Courts can be persuasive (but not binding) in the Isle of Man Courts and this case serves as a reminder, before exercising a power of amendment, to always check the exact wording of the scheme documentation.

If you would like further information on this subject please contact Rachel Winterbach and/or Annemarie Hughes.

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