

Schemes face payouts following civil partnership case

By [Pippa Stephens](#) | 28 January 2013 |

Schemes could face rising costs from backdating spouse's pensions for civil partners, to match their married counterparts, after an employment tribunal ruled they should be treated equally.

Schemes that opted to save on cost by only calculating civil partners' death benefits back to 2005, when the [Civil Partnership Act 2004](#) came into force in the UK, could face a slew of members in civil partnerships wanting to secure equal benefits.

The tribunal ruled chemical manufacturer Innospec's scheme was discriminatory as it provided more generous death benefits for married partners than civil partners.

Judge Russell ruled Innospec Pension Plan "discriminated against the claimant in their operation of an occupational pension scheme in the breach of the non discrimination rule included in the said scheme by virtue of section 67 of the Equality Act 2010."

Under the rules, one member's civil partner would have been awarded a benefit of £500 a year if he died, compared to more than £40,000 annually if he was married.

The scheme's defence was that the final salary scheme was based on mutual funding between members who did not accrue identical entitlements, that funding was complex and benefits agreed with some members would not have been offered to them if it was known those benefits would be later outlawed.

It also said the scheme was underfunded and there was no way of accounting for the additional cost of civil partnerships. The judge rejected this defence on the grounds it was "inappropriate" to speculate about the potential liabilities to result from changing the rules of a scheme.

Innospec said it was too early to comment as legal proceedings were still active. Lawyers anticipated the case would be taken to the Court of Appeal.

Jennie Kreser, partner at Silverman Sherliker, said the ruling would be an issue for the majority of schemes in the UK which opted for the cheaper option in 2005.

Kreser said: "Schemes might suddenly find themselves having to pay additional liabilities. It is another nail in the coffin [for DB]. It's just cost after cost after cost, trying to run a scheme."

Elmer Doonan, partner at SNR Denton, also said the case would set a trend for civil partners coming forward and that small schemes in particular may not have provided for the cost of the increased benefit payout.

He said: "This will certainly cost schemes more money, I suspect many haven't actually looked at it in that way."

Anne-Marie Winton, partner at Nabarro, said: "Trustees may wish to raise this possibility with the scheme employer and consider whether to amend the scheme rules and insure additional death benefits for civil partners."

Other schemes are making it clear to members what benefits their partners may be entitled to claim. Shropshire Pension Fund told members to register their cohabiting partners to qualify for death benefits in its December newsletter, telling them it considers these partnerships equal to married partners.

"If you are in a cohabiting partnership there are important steps you should take to protect your Local Government Pension Scheme benefits and make sure that if anything happens to you, your family doesn't lose out on valuable financial benefits," said the letter.