

Pensions Action Group Newsletter

Issue 1

2 August 2006

Welcome to our first issue!

The Pensions Action Group exists to campaign for the full restoration of the pensions of all those - both from insolvent and solvent companies - who have had their entitlements 'stolen' on the wind-up of their pension schemes. Government have resisted all attempts to make them face up to their responsibilities but the pressure is increasing and we are making real progress. The time is therefore ripe for the launch of this newsletter, which aims to keep you up-to-date with what is happening and to help you to make your own contribution to the fight. It is intended that it should appear approximately monthly, but this will be kept flexible so that breaking news can be covered as it happens. We hope that you will enjoy it and find it useful.

Remember - 125,000 people have had their pension rights 'stolen'. You are not alone!

Select Committee slams Government over lost pensions

The Public Administration Select Committee at the House of Commons has published a damning report on the Government's treatment of the Parliamentary Ombudsman. The Ombudsman had earlier found the Government guilty of maladministration in respect of the advice it gave on advice it gave on company, defined benefit (final salary) pension schemes and recommended that those affected should be fully compensated. Ministers however refused to accept either her verdict or her recommendations for compensation - the first time that this has happened since the Ombudsman's post was established some 30 years ago. The PASC report (entitled "Ombudsman in Question: the Ombudsman's report on pensions and its constitutional implications") examined not only the basis on which the Ombudsman drew her conclusions but also the constitutional implications of the Government refusing to recognise the authority of the office set up to oversee their activities. In all aspects, the committee has strongly backed the Ombudsman against the Government and has called on them to implement her recommendations.

It is unclear at this stage whether the Government will comply as they have two months in which to respond formally to the PASC. However, from recent interviews with Ministers it appears that they are going to try to brazen it out. If they do decide to defy the committee, the question will almost certainly be referred to MPs in parliament who will have the final say.

To maximise our chances of success, we all need to write to the media every time a story is run to push our case. The more feedback they receive, the more stories they will run, all putting pressure on this most publicity-conscious of Governments to concede. You can find details of stories as they are published on the email group (details at the end).

We also need to keep up the pressure on our MPs to ensure that they know that they have constituents who have been affected and that people care about the way the checks and balances on Ministerial power are being dismantled. We have to persuade them to vote in support of the PASC and the Ombudsman when the time comes.

To keep in touch with developments as they break, go to the news page on the PAG website (www.pensionstheft.org/2230.html). You can find a copy of the Ombudsman's original report at tinyurl.com/grnqe and the PASC report at <http://www.publications.parliament.uk/pa/cm200506/cmselect/cmpublicadm/1081/1081.pdf>

Advocate General says pensions should have been 100% protected

The Advocate General has advised the European Court that the wording of the 1980 Insolvency Directive is unequivocal - Governments are obliged to ensure that all members of company, defined benefit pension schemes should be fully protected in the event of company insolvency. This advice was sought as a result of the test case brought by the unions Amicus and Community in the High Court against the UK Government on behalf of a number of ASW workers. The High Court asked the European Court to rule on certain aspects of European law, and the court in turn took the advice of the Advocate General. The European Court normally follows this advice.

Less helpfully, the Advocate also advised that the law did not oblige the Government to make the payments itself, and that the breach by the Government had to be "manifest and grave" in order for compensation to be payable. Notwithstanding this, the Unions are optimistic that they will win the case when it is referred back to the High Court, not least because they have a great deal of evidence which was not presented to the European Court.

You can read the full report of the Advocate General at www.amicustheunion.org/docs/asw.doc and the joint press release at <http://tinyurl.com/mysu4>.

There's still time to beat the Temporal Limitation

The UK Government, as part of its defence against the union case (above) requested the European Court to grant a Temporal Limitation which would have the effect of ruling any similar claims against the Government 'out of time' if lodged after the Limitation was granted. In other words, there was a risk that only the claimants named in

the original ASW case would receive any compensation.

The earliest that this could have happened was on 13 July 2006 when the Court met to receive the opinion of the Advocate General and so there was a frantic campaign to register claims beforehand. Several thousand claims were lodged but many missed the boat. Fortunately, the Court did not rule on the request when they met, so the gate is still open, at least until the Court next meets which will probably be in September.

If you have been affected by loss of pension, you have a number of options.

1. If you are member of Community, Amicus or T&G then they will add you to the list of names associated with the existing court case, so contact them now to ensure that this is done. If you have any concerns about this speak with your local union officials. If you are a lapsed or retired member it is still worth contacting your union as they may let you rejoin. If you are a member of another union, try them first as they may also be prepared to act for you.
2. Talk to your independent trustee. Through their collective body TACT, some trustees are submitting claims on behalf of all their members (including transferred-out members), paying the cost from the pension fund. They consider this to be a valid use of funds as the cost is low relative to the possible benefit to large numbers of their members.
3. Make an individual claim. The solicitors Bindmans ran a group claim on behalf of everyone who contacted them by close of business on Friday 7th July at a cost of £50 per person. That group claim has now closed but they are considering running a second round of claims, possibly in association with the PAG. Keep an eye on their website (www.Bindmans.com) and our website (www.pensionstheft.org) for news.
4. Cross your fingers and hope the Temporal Limitation is not granted!

Judicial review – Govt gets nasty

Papers were lodged in the High Court of Justice on Wednesday 14th June, against the Secretary of State for Work and Pensions - John Hutton - requesting a Judicial Review of the Government's decision to reject the findings and recommendations of the Parliamentary Ombudsman's report.

This case is being brought on behalf of all those who have suffered injustice and loss when their company pension scheme wound up and is in the name of three individual scheme members.

Normally in such cases, where an important feature of the law is being tested, each side agrees to pay its own costs. However, in this case, the Government has said that it may pursue the individual claimants for 'unlimited costs' if it wins. Since this could easily run into hundreds of thousands of pounds, it is effectively threatening them with financial ruin if they dare to persist in their challenge.

Fortunately, the case is on ice at the moment, whilst everyone waits to see whether the House of Commons will enforce the Ombudsman's judgement. If they don't, we will have to consider a major fund-raising exercise to support the brave claimants. Watch this space!

Notch meeting

A Notch meeting was held on 11 June in North London. The main decisions taken that we would proceed with the Judicial Review, that we would encourage as many submissions as possible to the two Select Committees in Parliament, and that we would keep up the pressure through MPs and the local press. (These meetings are the decision-making forum for the group - watch the email group for details of future dates.)

Our most powerful advocate

Dr Ros Altman has been again working tirelessly on our behalf over the past few months. As many of you will know, she is an expert in the pensions field, a governor at the London School of Economics, has been an advisor to both the Treasury and the No 10 Policy Unit and is very highly regarded in the field. We are fortunate

indeed that she has adopted our cause and has given freely of her time to push forward our case. She is the driving force behind the Judicial Review (see above), has appeared before the Public Administration Select Committee, and has given numerous interviews, including on two successive days this week on the Today programme on Radio 4. She and her family are probably the only people who know the full extent of her contribution, but we offer our heartfelt thanks.

Solvents Update

By Richard Nicholl,
Solvent Company Scheme Co-ordinator

PASC REPORT:

The PASC has concluded, as did the Parliamentary Ombudsman, that people from solvent companies need just as much help as those from insolvent companies. In fact, our case is actually even stronger, as the fact that our companies could legally stop contributions proves how inadequate the MFR was. You must get to your MP and local media to highlight the fact that both the PASC and the PO have shown no discrimination between solvents or insolvents, and that we demand full restoration of our pensions, and that the FAS is simply not adequate!

A delegation of solvent company schemes met with the DWP in June to put our cases forward, once again, and our presentations have gone forward to the Minister. We are also demanding a meeting with Mr Purnell and Mr Hutton.

A delegation from AWP and John Hunt from Daybrook Laundry have seen Mr Purnell, and again put their strong views to him.

A member of a solvent scheme has been included in the Judicial Review action being taken.

We know of 20 solvent company schemes, with a total of about 8900 members. The DWP says there are 27 such schemes. Have you been in touch with me? If not, please contact me at richard@nicholl37.fsnet.co.uk Or phone 07711 927823.

Keep in contact

If you would like to keep in touch with events as they happen, to chat and exchange notes with others in the same boat, why not join our email group? Full details at <http://tinyurl.com/ruams>