

# Pensions Action Group Newsletter

Issue 7

2 February 2007

## Judicial Review Protest

The Pensions Action Group is bringing the Government to the High Court to challenge its refusal to accept the verdict of the Parliamentary Ombudsman and the hearing will start on 7<sup>th</sup> February.

This Judicial Review is going ahead despite threats of significant costs (over £110k) if the four claimants lose. This seems to be pure bully-boy tactics.

The four brave claimants are:

Henry Bradley  
Robin Duncan  
Andrew Parr and  
Thomas Waugh

The Pensions Action Group is holding a protest on Parliament Square outside the House of Commons on the day and we are asking MPs to come outside and stand with us from 12:30.

After the Parliament Square protest we are moving on to demonstrate outside the High Court and present a petition at Downing Street, all with police permission.

### Demonstration details

**When:** Wednesday 7th February 2007  
**Where:** Parliament Square (Westminster tube)

#### Timetable:

|               |                               |
|---------------|-------------------------------|
| 12.00 - 12.30 | Arrive Parliament Sq.         |
| 12:30 - 1:15  | Protest with MPs              |
| 1:30          | Move separately to High Court |
| 2:00          | Protest at High Court         |
| 3:00          | Petition at Downing Street    |
| 3:15          | Disperse                      |

What you need to do

1) The most important thing is to turn up with all your colleagues, family and friends. Banners will be provided.

2) Ask your MP to come across at 12.30pm (After Prime Minister's Questions) to show their support for Democracy. We shall be arranging photo shoots with MPs and constituents between 12.30 and 1pm

If you haven't already contacted your MP then please do so urgently. This could be the biggest opportunity the PAG has had to unite cross party MP's in what is by far, one of the biggest injustices of our time.

3) Bring very basic details of your pension expectation as we intend to produce placards showing that 80% compensation is a lie and in many cases it is 0%

4) Our four representative claimants in the High Court need your support as well. They may lose more than their pension on behalf of us all.

Please make every effort to be there to show that you appreciate what they are doing for you.

There will be a public gallery in the court for those who wish to watch the proceedings. Court hours are 10:00 to 16:30. The verdict will not be announced on the day but some four to six weeks later.

We are at the most decisive point in our campaign so far. So many people have worked so hard over the last five years to help us all get our pensions back. Please support them and yourself by being in London next Wednesday.

## European Court Verdict

By Andrew Parr

The European Court gave its verdict on 25<sup>th</sup> January 2007 on the issue of whether European law requires Governments to fully protect pensions on insolvency; whether the UK Government met the requirements; and, if not, whether it should pay compensation.

The verdict is a mixture of good and bad news, and both the unions and government are reporting it with different spin. The verdict says, in full legalese:

1. On a proper construction of Article 8 of Council Directive 80/987/EEC of 20 October 1980 on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer, where the employer is insolvent and the assets of the supplementary company or inter-company pension schemes are insufficient, accrued pension rights need not necessarily be funded by the Member States themselves or be funded in full.

2. A system of protection such as that at issue in the main proceedings is incompatible with Article 8 of Directive 80/987.

3. If Article 8 of Directive 80/987 has not been properly transposed into domestic law, the liability of the Member State concerned is contingent on a finding of manifest and grave disregard by that State for the limits set on its discretion.

The full verdict, with the discussion of the various points considered, can be found here:  
<http://tinyurl.com/2y38v3>

The full interpretation, no doubt, will be drawn by the lawyers, but it seems that a common sense interpretation is:

Point 1 seems to say that Article 8 does not require full 100% compensation, although it does not say what the compensation should be. This issue would be resolved in the UK Courts

Point 2 is the good bit. It says that protection in the UK, including the FAS, is inadequate. This is the part that the unions are pushing (see press releases). However, the government say that the investigation took place before the recent widening of the scope of the FAS and would argue that (under point 1) that it is now adequate

Point 3 is the really difficult bit. It says, correctly, that the issue must be resolved in the UK courts but, and it is a very very big BUT, the court has to find whether there has been a "grave and manifest disregard". This is a legal expression and makes a very difficult setpoint for the lawyers to reach. It is not sufficient that the UK government has breached Article 8 (point 2 makes that clear). The verdict (and the preamble) seems to suggest that the UK court has to decide this was done with something like malice or total incompetence

In the preamble the request for temporal limitation is dismissed.

We must also note that this case does nothing for those people who have lost their pensions with a solvent employer

It will take some time for the dust to settle, but it seems that the unions are currently trying for a political solution before going to the court again. Julie Morgan (Lab Cardiff North) has tabled an amendment to the pending pensions bill which goes before the House in this session. The amendment calls for the FAS to be considerably improved

As over half of the House has signed one of the three EDMs this amendment must have a significant chance of success.

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### Pensions Minister on Newsnight

*(With thanks to the Daily Mail)*

When pensions minister James Purnell appeared on Newsnight, viewers were mystified by the 'easy ride' he was given by the normally pugilistic Jeremy Paxman. Licence payers (and members of PAG) complained to the BBC that Mr Purnell had been allowed to "get off lightly" instead of being thoroughly grilled over the nation's pensions crisis. Now it has emerged that the BBC has held an inquiry into the role of Newsnight producer Thea Rogers, who booked Mr Purnell to appear on the show - and who just happened to be in the middle of a fling with him at the time.

Mr Purnell, 36, also faces questions over whether he broke ministerial rules by using his chauffeur-driven government car to whisk his glamorous 25-year-old girlfriend off for a romantic meal immediately after the programme.

The ministerial code of conduct clearly states that ministers should not use their cars for "private business".

Mr Purnell, regarded by some as one of the brightest young stars of the Blair government, insisted he had done nothing wrong in using his ministerial car to take Miss Rogers out for dinner, but Tory MP Mike Penning said: "That's not for him to decide. Only his permanent secretary can decide if there has been a breach of the ministerial code."

The ambitious Miss Rogers, who worked for Labour during the 2005 election campaign and is said to be on first name terms with Gordon Brown and Tony Blair, did not tell her Newsnight bosses that she was dating Mr Purnell at the time she was asked to book him as a guest on the show last October.

It is also understood that she may have helped brief Paxman on the line of questioning he should take in the interview. As a result, the BBC has held an internal inquiry into her role - which has cleared her of any wrongdoing.

Sources at Newsnight insisted last night that it was "absurd" to suggest that Miss Rogers's relationship with the minister had any bearing on his treatment on the show.

Mr Purnell said he had no involvement in the preparation of the programme or the questions put to.

So that's alright then.

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### **Support in the media**

There has been a tremendous upsurge of support for our case in the media over the last month. Most notable was the documentary "Where's my pension gone?" which was broadcast at peak time on 25<sup>th</sup> January on ITV1 and gave a hard-hitting exposé of all the various organisations which have damaged our pensions, with the chief culprit being our would-be Prime Minister, Gordon Brown.

Gordon Brown's culpability has also been seized upon by the print media, from the specialist publications such as Pensions Week through to the mainstream newspapers. Our particular thanks go to the Mail and Telegraph who have been absolutely steadfast in the massive coverage which they have given to our campaign for justice.

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### **Most MPs now support us**

In the House of Commons, Early Day Motions (EDMs) have no effect in themselves but are used by MPs to indicate the level of support there is for a particular issue. There are three EDMs (nos. 106, 241 and 749) proposing additional support for those of us who have been deprived of part or all of our pensions and, between them, these have attracted 336 unique signatures - 13 more than were needed to show an absolute majority of the House. Given that Ministers and various other office holders do not by convention sign EDMs, this is a substantial achievement. EDM number 241 on its own has 251 signatures - over half of eligible back-benchers.

With this tremendous groundswell of support in the House of Commons, how much longer can this Government hold out?

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### **Saga petition tops 10,000**

We have covered the tremendous support which Saga has been giving to our campaign in earlier issues, so it is wonderful to be able to report that their petition on our behalf has smashed through the target of 10,000 signatures which they set and currently stands at 10,414. If you haven't signed yet, there's still time to register your voice - just go to:

[www.petitiononline.com/Pensions/petition.html](http://www.petitiononline.com/Pensions/petition.html)

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