

Pensions Action Group Newsletter

Issue 19

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DWP Responds to First Consultation

The DWP has now published its response to the first round of consultations. Their basic approach appears to be to push through the increased payments promised by Peter Hain in December as quickly as possible and to defer any issues which are contentious or which require more work until a later consultation round.

The main points addressed were:

- The DWP did not consider it appropriate to increase the compensation beyond 90%, or to increase the indexation beyond the small amount on offer.
- When asked what would happen to pensioners whose scheme assets were taken over by the Government, the DWP responded that it "*...will have regard to the pensions which members - including pensioner members - would have received from their schemes had they continued to wind up and discharge liabilities by annuity purchase.*"
- The DWP continued to refuse to make back-payments in respect of lost pensions for people who retired earlier than 14 May 2004, but left the door ajar by saying that they will keep it under consideration and will consult again later in the year.
- A number of issues were raised in respect of the Normal Retiring Age. The Government have decided to keep the current definition in order to facilitate speedy payments, but will consult again for a further set of regulations this year.

A number of submissions were received relating to issues not covered by the draft Regulations. Some of these issues related to other reforms announced on 17 December 2007, for example the payment of lump sums, the application of indexation in relation to assistance derived from service after April 1997 and preserving the value of the FAS cap. Other issues raised included general concerns about the operation of the FAS, for example:

- concerns around tax treatment of FAS payments;
- court cases slowing the scheme wind-up process;
- treatment of unmarried partners;
- potential changes to information requirements; and
- the treatment of Additional Voluntary Contributions.

The draft regulations and the response to the consultation are available from the DWP website here:

<http://tinyurl.com/5oxrk4>
(3 documents, dated 6/03/08)

If you are affected by any of the issues above on which the DWP has decided against us, you need to read the full version from the DWP website and then approach your MP. The only way the Government will change its mind again on these issues will be if they are put under political pressure in Parliament. After the recent election results, we may find ministers to be more receptive than previously, but it will still be a battle to move further forward.

PAG Meeting with FAS

By Terry Monk

Together with Ros, Richard Nicholl, Andrew Parr and Pete Humphrey, I attended a meeting with the FAS team on 1 May for both an update on previous consultations and progress as well as PAG submitting a response to the consultation on ill-health, solvents and administration issues (including the role PPF will play in the transition and delivery of the benefits and funds from the schemes that have not annuitised).

Update on Scheme Retirement Age and 90%

We have expressed concern that there should be more flexibility to recognise scheme practice and variations in the definitions of Normal Retirement Age (NRA) and this is reflected in the comment that further discussions will take place and will be part of the autumn consultation document. The current objective is to get as many paid as possible as quickly as possible by the introduction of these initial regulations.

We understand that the regulations should be read and passed by Parliament in the week commencing 19th of May and, with the systems already in place, the first payments to members who have not yet received any payment from FAS should start in June. Any members who are already receiving payments from FAS will have their payment reassessed at the new rate from the start of June and this process will run until the end of August. This is because there will be around 7,000 recipients to be processed, which is why the dates will be spread over the June to August period. Members should only contact the Operational Unit if they have not received any notification regarding the revised payments by 1st September. Any back payments that were due will be sent out at the same time.

If any of you have any special conditions in your rules which might provide benefits earlier than NRA (without the consent of your employer or trustee) can you let me know please, also advise if you have a copy of the rules or advise who your trustees are.

There is positive progress on the taxation of the back payments and FAS are meeting HMRC on 2 May and as soon as we have more information we will let you know via the Pensionstheft email group.

The Annuity factor consultation does not need Parliamentary approval and the results of the consultations should be published shortly so that

the introduction of the factors coincides with the NRA regulations.

Ill-health and solvents

You will all have had the opportunity to read the consultation and whilst we have made progress in actually getting ill-health provision we strongly believe that it does not go far enough

We are looking for a longer period than 5 years from NRA and have challenged some of the assumptions and costs. We are also looking for a more generous interpretation of terminal illness payments.

We have raised the question of when ill-health payments can start and backdated payments, as well as raising questions regarding the reduction factors used.

I should add this is a summary to keep you informed and I apologise in advance if I have left anything out. We raised some specific member questions and Richard has already sent emails to those concerned.

Richard dealt with the solvents and there is a genuine desire of FAS and Government not to leave any scheme out although there are very complex technical issues to overcome for a few schemes.

The Cap

Ministers have committed to maintaining the value of the Cap (which limits the maximum amount of annual payment which can be received from the FAS) but it is not yet clear whether this is an absolute commitment or whether a watered-down version will be offered. The Cap primarily affects those with the longest service, so PAG will be arguing forcefully for full indexation.

General

Although not covered by the consultations yet we raised

- Escalation of pensions for all service
- Tax Free Cash
- Spouses/Partners
- Early Retirement generally
- GMPs and if they can be commuted

A positive meeting but still a lot of work to be done.

Terry

FAS Update

On Thursday 1 May, Terry Monk and Peter Lapinskas held a telephone meeting with the FAS to review progress.

Timetable for regulations

Now that the DWP response to the first round of consultations has been published, it is anticipated that this first set of regulations (primarily raising the FAS rate to 90% and recognising scheme NRAs) will go before Parliament during the week of 19 May for debate. It is expected that they will be voted on before the Whitsun recess. Assuming that they are approved, the FAS team are ready to start making payments at the new rate very shortly thereafter. Given that there are 5,500 people currently receiving payments, it will take a few months before everyone who is currently receiving FAS payments gets their money at the new rate but the FAS expect to have everyone covered by the end of August. The good news is that as people receive the first of the new payments, they should also receive all backdated payments. Any people who become eligible for payments during the period will receive them at the new rate.

More information about the changes will be sent out to all those currently receiving payments within the next ten days, when the FAS will be sending out P60 (statement of income for tax) forms.

The FAS has data on some 1500 people who are not yet 65 and their records will be checked to see whether their Normal Retirement Age is less than 65, in which they may be eligible for immediate payments and back-payments.

Annuity rates

The second consultation, covering annuity rates, came to an end on 18 April. The DWP will consider the responses and then decide on the appropriate rates. It already has the authority to make the necessary changes and so there is no need for this issue to go back to Parliament. The FAS intends to start using the new rates at the same time as the 90% payments begin.

Statistics

There are 5,485 people receiving FAS payments as of 25 April, of whom 1,114 are receiving annual payments and 4,371 are receiving initial payments. A further 529 people could be receiving payments but have not yet returned their personal details form and so the FAS don't know where to send the money.

Procedures

A number of people have asked what the procedure is when a member is nearing 65 (or NRA once the regulations are approved). FAS have systems in place, which usually means that trustees provide the information about members who are reaching their NRA up to three months before the appropriate birthday. Provided that the correct data is received from the trustees in good time before the members NRA, the FASOU will assess their payments and contact the member directly and ask for personal details so that payments can be made. The FAS makes payments on or about the 21st of each month and the first payment to the member will be made then, provided that the FAS receive the personal details in time.

Members can check the status of their own scheme on the FAS website here, and in particular whether the data form (S1) has been received by the FAS:

<http://tinyurl.com/5eete4>

Further FAS meetings

Alan Gosling and John Hayter also had a meeting with representatives of the FAS on 9 April to press for FAS payments to be related to individual scheme rules. In particular, they were concerned that there should be more generous index-linking for those in schemes which provided it; and that scheme rules should be respected with regard to payments to unmarried partners. They received a sympathetic reception and are now pressing for a meeting with the responsible minister, Mike O'Brien.

DWP persuades Treasury to drop threat of unfair tax for pension victims

(Press release from Ros Altmann - 31 March 2008)

The DWP has now persuaded the Treasury to think again about deducting unfair tax payments from the arrears paid out by the Financial Assistance Scheme. James Purnell, Secretary of State for Work and Pensions, is announcing this afternoon that 'FAS payments relating to a past period need not be taxable in full in the year in which they are received. As a result, people will pay no more tax than they would have done if the payments had been made in those years'.

This is really good news, but of course it will be essential to get the detail right. The arrears should not be added to any earnings that the victims had during the past few years, because they were only working as a result of not having received their pensions.

The important principle is that members want to know they won't be penalised - tax-wise - for having had to work during the past few years when they should have been living on their pensions. They are only receiving this money so late because of the Government's intransigence and inefficiency in properly sorting out the Financial Assistance Scheme and offering a fair settlement to the victims. They were forced to continue working because they had no pension and, at the same time, of course, they also had to endure the stress of fighting the Government to have their pensions restored!

Not only this, but of course the Treasury has not offered to pay any interest on the arrears, even though money should have been paid several years ago. We are calling for the FAS arrears payments to be treated in the same way as 'top-slicing' relief which applies to life policies. The sum received should be divided by the number of years to which the payment relates and then taxed at the marginal rate applying to that amount. For example, if the member should have had a £12,000 a year pension, and receives four years arrears, he will get £48,000 which would take him into the 40% tax band. However, he should only be taxed at the marginal rate applying to £12,000. That is how the Inland Revenue taxes gains on non-qualifying life policies and this is the principle that would seem fairest to apply here. It certainly seems difficult to justify the Treasury taxing FAS payments more harshly than life policies!

Members would certainly feel bad if FAS arrears are taxed on top of earnings they received in the past few years, because they were only forced to keep working because their pensions disappeared.

Indeed, in many cases their health has suffered dramatically as a result of being forced to find work for years after they had planned to retire.

So, as long as this is done right, it is excellent news for the victims. Once again, the DWP has shown its commitment to drawing a line under this scandal. Media pressure has also helped deliver this about-turn from the Treasury. We are very grateful to DWP Ministers for engaging swiftly with the Inland Revenue to sort this problem out and trying to restore some confidence in pensions, by finally treating victims in a fair manner.

Ros Altmann

(Editor's note: The DWP are still holding discussions with HMRC to establish how the back payments will be treated for tax purposes, with the intention of providing some flexibility so that individual circumstances can be taken into account. We will report the final details when they are settled.)

Keep in contact

If you would like to keep in touch with events as they happen, to chat and exchange ideas with others in the same predicament, why not join our email group? Full details at:

<http://tinyurl.com/ruams>

Previous issues

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