

Pensions Action Group Newsletter

Issue 21

16 February 2009

The Long Wait is Over

Government publishes pension consultation document

The Government has just issued the consultation document which will lead to the finalisation of their proposals to compensate us for the losses we have suffered through their maladministration of final salary pensions. There have been some substantial improvements but they still fall a long way short of full compensation. We have until 25th March to send them our views.

In December 2007, the Government announced a series of improvements to the Financial Assistance Scheme and over the last 14 months they have organised a number of public consultations and introduced various regulations to bring these into effect. However, up until now, these processes covered only the relatively uncontroversial issues – the more ‘difficult’ issues were delayed until the final round of the consultation, and this is the round which has now started.

If you have been affected by a loss to your pension resulting from the insolvency of your employer, this is what you need to do.

- Download a copy of the consultation document which is available at:
<http://www.dwp.gov.uk/consultations/2009>

- Read it carefully, especially insofar as it affects your own position.
- If you feel that the payments on offer fall short of what you feel would be sufficient compensation, or that you will be treated unfairly relative to others, or you have other relevant points to make, write to the address given in the document and briefly state your case. If you use your own words (rather than copying from other documents) and can relate your comments to your own situation, they will carry much more weight.
- Email a copy of your letter to PAG (newsletter@pensionstheft.org), so that we can incorporate your views into the PAG position
- Watch out for the next newsletter which will give details of the PAG position and forthcoming PAG actions.

We have fought long and hard to achieve justice and have come much further than anyone thought possible at the outset, in the teeth of determined Government opposition at every stage. Now is the time to finish the job!

Summary of the Government Proposals

(The following document has been prepared to help you to identify the key areas in the new consultation document and respond accordingly.)

PLEASE READ, UNDERSTAND AND WHERE APPROPRIATE MAKE INDIVIDUAL REPLIES. THE MORE PEOPLE THAT MAKE KNOWN

THEIR VIEWS THE BETTER CHANCE WE HAVE OF OBTAINING ADDITIONAL CHANGES

Ill health and early retirement

There has been a vast improvement in both the ill health and serious ill health terms but PAG still

wish the Government to go further and to allow ill health payments within 10 years and not 5 years of scheme retirement age with a minimum of say age 55

Further we feel that, particularly in the current economic climate, voluntary early retirement on any grounds should be allowed after age 55, albeit with an actuarial reduction

PPF allows reduced voluntary early retirement pensions

Pre May 2004 service

There are no signs of movement and we are studying some figures produced by FAS comparing benefits that if paid before May 2004 would lose the revaluation up to the date of payment, and therefore people would not be any better off in the long term.

Costs

There is a statement about tax payer costs which is wrong as they are guilty and in any event the Young review generated £1.7bn and would have been more if they had listened to Ros

Revaluation pre retirement

We have been seeking scheme basis of revaluation rather than RPI with a 5% maximum but there are no signs of movement. We have pointed out that those further away from retirement may not get 90% of their accrued pension because of this.

Partners

This looks like good news and something we have fought for but we ask anyone affected to study the terms closely and let us have their comments on the proposals

People with different retirement ages in the same scheme

The approach is wrong and if a scheme had benefits payable at different ages they should be paid without reduction at that age and this is I believe where it suits FAS to act differently to PPF. There are some outstanding legal issues around this including the Foster Wheeler case ruling which for some schemes gave a right to all benefits at the earliest age

If anyone thinks they are in a position affected by this they should respond with details to FAS

Annuity Rates

We will comment here on not using the actual reduced pension for people who took tax free cash if that actual figure was available and we would also comment on the changing annuity rate

market and are FAS reflecting this in their factors? (Alexander Forbes (not the trustees) did comment this week on falling annuity rates)

The Cap

The cap hits long-service members. It is an argument we have had and not won. But we would add that on one hand they are revaluing the cap for all the pension (subject to the cap) but not doing the same with the actual pension where only post-97 bit gets revalued and at a lower rate than the cap

Post Retirement indexation

This has to be our main thrust and we will argue strongly with threats about resolving this. We have all seen and felt the effects of inflation and in particular the impact for pensioners

There are some aspects of the detail around the interplay between FAS post-97 service indexation and any residual scheme benefits that may carry some indexation (GMP for example)

We must fight for protection of indexation on any residual benefits and for full indexation of all service if the scheme provided it

Tax free cash

Although not ideal following pressure from PAG we have least got FAS to allow the GMP (Contracted out benefits) to be commuted which was not the case when we started the consultation process

This is only a brief summary - you must read the document yourself and send in your own comments

We are considering what further action we need to take which includes meeting the Minister and the opposition spokesmen

*Terry Monk
Peter Humphrey
Andrew Parr
Richard Nicholl
Ros Altmann*

13th February 2009

*Editor's note: To respond to this consultation by email write to:
Fas-responses@dwp.gsi.gov.uk*

*By Post:
Financial Assistance Scheme Consultation
DWP
Private Pensions Policy*

Adelphi
3rd Floor
1-11 John Adam street
London
WC2N 6HT

Please keep us informed and also copy in your MP with any responses you send. We would also appreciate any views which might help PAG with the consultation process, particularly if you are affected by Survivors benefits (p 22), Date Payments begin (p12 s 19), or Rights accrued at different ages (p 13)

Severe Ill-Health

The regulations which were designed to give a much fairer payment system to those in severe ill-health have been laid in Parliament today.

The aim is to have them debated by March ready for payments to start in April.

This is long, long overdue and, sadly, some very ill people have died before getting the money they should have had.

After very long, tortuous negotiation, these regulations are designed to offer unreduced pensions to people with serious illnesses and severely shortened life expectancy. The regulations cater for two types of such people.

Firstly, they will help those who have already been ill for some time and who are obviously the most seriously affected by the loss of the pension they would have had from their scheme. The Government has finally agreed to backdate the pension to the date when the serious illness started (subject of course to some medical confirmation of this) after May 2004. The members who qualify under this category will receive the full FAS payment (without reduction for early payment) and the first payments will include a lump sum to reflect those payments which relate to past years not yet paid.

Secondly, the DWP has agreed that widows of those who have died will receive the payments their husbands would have had if they had lived, rather than the normal half of the FAS payment from their date of death, so again these widows will receive some lump sum back payments.

Thirdly, there will be special provisions for those who are already getting money from the FAS under the ill health scheme already in place, but whose payments have been reduced. If you are under the ill health provisions with a reduced FAS payment, then you should get back pay for the period from when you became seriously ill with severely shortened life expectancy.

Fourthly, anyone who becomes seriously ill from now on and whose medical condition leads to a severely shortened life expectancy such that they may not live more than another 5 years, will be able to claim early full FAS payments. This is far better than the existing arrangements which would only pay reduced payments to reflect taking the pension early and which would be so unfair.

All of this applies to those over age 55 as far as I can tell.

It is now important to get these regulations debated and passed in the Lords and Commons as soon as possible.

If you think these regulations apply to you, please let us know and also please write to the FAS to ensure that they have the information they need in order to assess your claim and start payments as soon as possible after the Regulations are passed by Parliament. You will need medical evidence and you will need to have contacted your trustees to let them know you are seriously ill.

Dr Ros Altmann
11 February 2009

Editor's note: The formal DWP response to the ill-health consultation is available here:
<http://tinyurl.com/d6p3aj>

Indexation and the Cap

In December 2007, the DWP promised that it would "protect the value of the cap". (The cap is the Government-imposed limit on the amount of pension plus assistance that can be paid under the FAS.) The phrasing in the consultation document is not clear, so it is worth describing how it will work in more detail.

The government is proposing that your expected pension will be assessed at the point when you reach Normal Retiring Age. Your actual pension will be likely to be rather less than the expected pension, so they will take a figure of 90% of your

expected pension and, if it is greater than the cap, the figure will be reduced to the level of the cap and they will then pay to you the difference between your actual pension and the calculated figure. Government have promised that the cap will be revalued annually in line with the Retail Price Index, but the cap is only applied once. Once in payment, your entitlement will be adjusted annually according to the FAS indexation rules but will not depend on any future adjustments to the cap.

This means that the value of the cap is **NOT** being protected after you retire! Indexation of your FAS assistance once in payment will apply only in respect of contributions which you made after 1997, and even for that portion, it is restricted to a maximum of 2.5%. So for anyone with significant service before 1997, and for everyone if inflation rises above 2.5%, the proportion of your expected pension which you actually receive will be less than the promised 90% and will decline year-by-year. This is a double whammy: recipients will be hurt by the low rate of indexation, and then hurt again because the cap is locked to the FAS indexation rather than RPI after retirement.

The cap was originally intended as a form of means-testing, to limit the assistance paid to wealthy individuals, but it fails, even on this measure: A wealthy company director might have accrued a £26,000 pension in just two or three years. This would be only a small part of his

pension portfolio, yet it would not be capped. Someone who had worked his way up from the shop floor to a middle management position over 40 years with the same company could easily have accrued more pension than this, in his only pension, yet he will lose everything above the cap.

This is manifestly unfair.

Peter Lapinskas

Keep in contact

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

Previous issues

You can download previous issues of the newsletter from (inserting the number of the issue you want):

[www.pensionstheft.org/newsletters/
newsletter01.pdf](http://www.pensionstheft.org/newsletters/newsletter01.pdf)

To receive notification when future copies are available, send a blank message to subscribenews@pensionstheft.org