Pensions Action Group (PAG)

FACT SHEET, the details

The PAG has been campaigning for over 22 years to try and restore the full value of the Defined Benefit occupational pensions that our members lost during the period between 1997 and 2004, as their companies closed down their pension schemes, primarily due to the company going into liquidation or where it had established a 'Compromise Agreement' with the trustees to try and prevent liquidation.

We have seen, however, that there is a great deal of misunderstanding about what happened to our pensions when the schemes closed down, how much was lost and where the funding needs to come from to restore our full, paid for, pensions.

So here is a Summary of the facts, followed by a further more detailed breakdown:

SUMMARY, main points

- Defined Benefit Occupational pensions schemes introduced after the Second World War were the envy of the rest of the world, and encouraged employment and retention of workers.

- Following the Robert Maxwell scandal in 1991 workers were told, in writing, by the government that their pensions were guaranteed and safe, no matter what happened to their employer and sponsoring company. So, workers joined their company schemes and many paid extra for both pre 1997 and post 1997 indexation to protect them in their retirement.

- In the 1990's Governments reduced, then totally removed, the income tax relief pension schemes enjoyed on the dividends from their investments, raising over £5bn each year for The Treasury.

- Government in the late 1990's reduced the Minimum Funding Requirement against strong advice. The MFR in itself was already flawed, as it assumed a scheme will be ongoing, but when it closes, even if it was funded in excess of 100%, some members might only receive as low as 10% or 15% of their expected pension, due to the Priority Order, which prioritises the existing retired pensioners.

- Between 1997 and 2005, many schemes from insolvent employers were wound up with employees receiving only a fraction of the pensions they were promised, and in some cases, nothing at all.

- Government ignored the EU Insolvency Directive which would have provided a safety net.

- Government ignored the High Court, a Parliamentary Ombudsman Report, and Select Committees.

- A long campaign by the PAG and others resulted in the introduction of the Financial Assistance Scheme (FAS).

- The 2007 version of FAS proclaims that the pensioner will receive 90% of his pension, but caveats introduced by government reduces that significantly, mostly due to the lack of any indexation on a member's pre 1997 pensionable service. Most recipients will receive a figure around 50% or less after only 18-20 years.

- The original GMP element of any FAS award also attracts Zero indexation

- Schemes entered FAS up to 2004, with the £1.9bn residual values of these schemes transferring to The Treasury, but this money was not ring fenced to provide any further uplifts to FAS members.

- After the introduction of FAS government changed the criteria for setting the indexation levels on post 1997 pensionable service from the higher PRI to the much lower CPI.

- The PAG continued to campaign for the reform of the FAS to provide the full pensions that workers had paid for.

- Meanwhile the government spent millions of Pounds on legal fees and DWP costs trying, often unsuccessfully, to prevent any increase in FAS payments.

- The Works & Pensions Select Committee in March 2024 produced a Report on Defined Benefit schemes which recommended that government pay the pre 1997 indexation.

- The previous government did not respond to this Report as the General Election was called.

- The current government is studying the Report and hopefully will respond positively very soon.

- The cost of providing pre 1997 indexation is manageable, at around £180m, and given the £5bn received each year since 1997, plus the £1.9bn absorbed by the Treasury we believe that the money is there to pay it, and The Treasury will receive 20% of any uplift back in income tax.

- The DWP continues to lose approximately £8bn per year in mistakes and fraud.

- Righting this travesty will help to restore confidence in Pensions savings for the current generation.

<u>The More Detailed Breakdown</u>

What helped to cause the closure of these schemes?

In the 1990's most Defined Benefit (final salary) occupational pension schemes were quite healthy, in fact some were 'overfunded'. However, government regulation meant that if a scheme was heavily over funded it would be taxed more, so companies reduced their input into the schemes, or took pensions holidays, which lowered their contributions.

The government had introduced the Minimum Funding Requirement (MFR) which schemes had to comply with to be able to provide their employees' pensions as they fell due, and if they were 'underfunded' they had a period of time to make up any shortfall.

In the 1990's as schemes were seemingly doing well, the then Conservative government reduced the income tax relief that schemes had enjoyed from the dividends on their investmentsso taking away some of the returns needed to pay the pensions.

The subsequent Labour government totally abolished this tax relief, and therefore The Treasury gained about £5 billion per year. In addition, any pensions scheme shortfalls had now to be shown on a company's balance sheet, so reducing profitability and possibly any potential future borrowing, compromising the company's solvency.

Gordon Brown, as Chancellor, against strong professional actuarial advice, but under pressure from businesses then reduced the level of the Minimum Funding Requirement, when in reality he should have strengthened it.

This was aserious blow to any future pensioners if their scheme and company closed.

The government's Minimum Funding Requirement was in itself flawed, as it was designed to give a picture of the health of the scheme if it was ongoing. But if the scheme closed then that was a different matter. The MFR was set at the level at which only 50% of schemes would have enough funds to meet their liabilities, assuming that the scheme continued to run. So, members only had a 50:50 chance of receiving their full pension, even from a scheme which was fully compliant with the MFR. So, in simple terms,a scheme that might have shown an MFR of over 100% would actually not be able to pay the pensions in full.

Worse than this, the law required schemes which were winding up (usually as the result of insolvency) to transfer their assets into low-risk investments such as equities which have a much lower rate of return. The Government knew that members would lose an even higher proportion of their pension but did nothing to warn them.

Between 1997 and 2004 many schemes closed as their sponsoring companies failed, leaving the workers without a job, and without the pension they had paid for. This affected over 140,000 workers.

When a scheme closes a defined Priority Order takes place immediately. This means that pensioners who have already retired get 100% plus their scheme's original full indexation and all other benefits, through the purchase of annuities (which are very expensive).What is left in the fund is then shared among the remaining deferred members, some of whom may get as low as 10% to 15% of their expected pension.

Why was there no protection at that time, and what happened next?

As the UK was a member of the EU at that time it should have created a safety net, similar to the current Pensions Protection Fund. This was mandatory under Section 8 of the EU Insolvency Directive.

UK governments had simply ignored this requirement, and so the deferred pensioners were faced with losing most, if not all, of their expected pensions. Obviously, this was devastating for them, and

sadly the PAG is aware of several workers took their own lives rather than face a financially bleak future.

The Pensions Action Group was formed by a group of workers who faced this terrible position. They met and formed a committee to demand the return of the pensions they had paid for over their working lives.

With the help of some unions, and Dr Ros Altmann (now Baroness Altmann, later herself to become a pensions minister), the case was taken to the European Court in Luxembourg where the Judges told the UK to remedy the situation.

The government ignored that instruction, and so further legal cases were held in the High Court in London, and subsequently a Parliamentary Ombudsman Report, 'Trusting in the Pensions Promise' found the government guilty of maladministration, and recommended that the government take immediate action.

Further challenges ensued, and eventually the government introduced the Financial Assistance Scheme in 2004, but this was a very weak scheme, providing very little to very few. The FAS covers schemes that closed before 2004, and the Pensions Protection Fund (PPF) applies from 2005 onwards, and has similar limitations to its indexation, although their recipients would have had much less pre 1997, and much more post 1997,pensionable service. The PPF now administers the FAS on behalf of the DWP.

Further campaigning forced the government to upgrade the scheme in 2007, but even this safety net was full of holes and caveats, reducing the value of their announcement that pensioners would receive 90% of their expected pension. The biggest effect met by most FAS recipients is that the pre-1997 years of their pensionable service would not attract any indexation at all! Even any post 1997 indexation would be limited to a maximum of 2.5%pa, when most schemes originally paid between 3%pa and 5%pa.

Later the government further reduced the value of even that limited indexation by adopting for FAS calculations the annual Consumer Protection Index (CPI), rather than the higher Retail Price Index (RPI) which the original company schemes paid, and which members had paid for. Currently the CPI is running at 2.2% while the RPI is 3.9%.

In addition, if the scheme had been contracted out the worker would have received the GMP, Guaranteed Minimum Pension, which would have provided an annual indexation rate of approximately 5%pa. The GMP element within their FAS award, however, is not indexed at all.

The biggest loss is this lack of pre 1997 indexation. With inflation hitting high figures over the last few yearssome FAS pensioners have seen their actual annual 'awards' reduce from the mythical 90% to nearer, or less than, 50% of their original expectation. Some workers reached their retirement age in, or before 1997, so they receive no indexation at all. The widows or widowers of any member should have received 50% of their partner's pension, but will now receive 50% of the much lesser amount.

What should happen now, and who should pay?

Members of their original schemes had been told, in writing, by the government after the 1991 Maxwell Scandal, where Robert Maxwell plundered the pension funds of the Mirror newspaper group, thattheir pensions were safe and guaranteed and would still be there for them whatever happened to their sponsoring company.

Most FAS recipients paid extra into their company pension schemes during their working lives to provide both pre 1997 and post 1997 indexation. The PAG is not asking for this indexation for those schemes that did not originally provide it, and therefore their members had not paid for it.

The governments' ignoring of the EU Insolvency Directive and the Courts, the maladministration identified by the Ombudsman, along with the regulatory changes, weakening of the MFR and arbitrary tax raidsare the reasons that the PAG hold the government responsible and accountable for us being in this position, one of the biggest injustices of the last century.

The last government also spent several millions of Pounds in legal fees and administration costs trying to defend any upgrades to FAS, and the PPF. While the restrictions to the FAS and PPF awards are similar, the courts treat the two schemes separately, with FAS not receiving the same uplifts as the PPF.There are still some other punitiveanomalies between the FAS and the PPF, such as a Cap that still applies to FAS but not the PPF, and interest on any back payments.

We understand the concerns that the taxpayer may have to help fund the pre 1997 indexation that FAS currently does not provide, but the government fails to mention that they quietly absorbed the residual funds from these failed schemes, to the tune of £1.9 billion, which includes the members' contributions. Gordon Brown used that money to shore up his own 'Black Hole'. If that money had been ring fenced and invested, as the PPF funds have been, and which are now well in surplus, we would now not be in the position we are.

So, the Treasury took, and still takes, about £5 billion each year by cancelling the dividend tax reliefs, plus it took the £1.9 billion funds from our schemes. Therefore, the Treasury is in a strong position to provide the required total of £180 million over the next 10 years (£18m pa) to provide our pre 1997 indexation. They will then immediately get 20% back in income tax. And that is only to the maximum indexation of 2.5%pa based on the CPI and many schemes would have paid up to 5%pa based on the higher RPI. After 10 years there will be a minimal ongoing cost as sadly most of the FAS recipients will have passed away.

The PAG believes, therefore, that there is adequate funding available to right this travesty.

And let's not forget that the DWP loses an average of £8 billion each year through its own mistakes and fraud!

We have had to observe over the last few years of ultra high inflation as public servants, those on State Benefits, the Minimum Wage and the UK average income all enjoyed annual indexation increases, while we are left behind with Zero Pre 1997 Indexation. We are only asking for what we have paid for. We need what we paid for!

The Works and Pensions Select Committee, an all party committee under Sir Stephen Timms, in its Report into Defined Benefit schemes, published in March 2024 and handed to the previous government, recommended that the government pay the pre 1997 indexation that is currently missing in FAS. The General Election meant that there was no official response from the last government but the PAG is asking the new government to respond without any further delay and to implement the WPSC recommendations.

The number of the original 140,000 workers affected is sadly now below 100,000 as so many have passed away, and the number decreases every day, that is why action is needed now!

Pensions Action Group www.pensionstheft.org 07 October 2024