

## **Independent Trustee Services response to February 2009 consultation**

Our objective is to deliver to the members of our schemes the Government's headline figure of 90% of Expected Pension. There are a number of areas where this may not be achieved. We will address these matters below.

Ministers and DWP/FAS are also quite often adamant that all members within any scheme who receive an award should be treated consistently. But we would add that all schemes were different and benefits should as far as possible be protected and not lost for administrative efficiency.

### **Indexation**

This is one of the most important areas and one which gives members the greatest concern and will continue to do so unless the issue is resolved.

#### **Why is it of concern?**

Once a person has lost the ability to generate additional funds through work they are dependant upon their pensions and savings to maintain their living standards throughout the remainder of their and their spouse's life times.

Pensioners are exposed to more inflationary increases than the general working population given that their retirement income is largely spent on council tax, food and fuel which suffer higher inflation than items such as new cars and white goods, which in general pensioners do not spend too much money on.

#### **What should be done?**

FAS should pay RPI increases each year with no maximum and no limitation to qualifying contribution periods in accordance with scheme rules.

FAS provides only RPI indexation to a maximum of 2.5% pa and even that is only applicable to post 1997 (and pre commencement of wind up) contributions/service and ignores the scheme basis, and where the scheme was contracted out it ignores the increases that the contracted out benefits would have received. The majority of schemes involved started wind up around year 2000, so a member will only receive indexation applicable to 3 years of his contribution period, a small portion of the total service for the majority of members.

It is argued that, regarding this issue, FAS is mirroring PPF, but we do not agree for the following reasons:

1. Members who benefit from FAS did not have the advantage of the awareness of the risk and the protection of the PPF.

2. As each year passes post April 2005 (PPF introduction) and with each subsequent year post 1997 (indexation starts to accumulate), PPF beneficiaries will receive a greater proportion of their benefits, that will attract escalation, FAS beneficiaries were never in that position and have never had the opportunity to plan for this eventuality.

### **Impact of existing benefits on post 97 escalation**

The consultation document refers to schemes where the trustees may have purchased a lower annuity with escalation from the scheme assets and comments that these people would receive more FAS benefits due to the FAS top up and the effect of escalation on the annuitised part.

The paper comments on consistency and standardisation for administration and cost efficiency:

- All benefits pre and post 97 should have escalation.
- If the scheme assets purchased GMP with escalation this should not be offset against post 97 increases.
- If the scheme bought lower annuities with escalation the annuity should be converted to a non escalation annuity and then topped up (this issue would not arise if all service counted for escalation).

Priority orders on wind up broadly provided for the following (excluding AVCs):

- A. Pensions in payment
- B. GMP
- C. Pensioner increase
- D. Deferred benefits
- E. Escalation on D

Therefore the issue of lower pensions with escalation would not have occurred or would be very rare and should not penalise the majority.

### **Pre May 2004 service**

We still have concerns for some members who are affected by lack of consideration for pre-May 2004 but post NRA period and we have looked at one example provided by FAS comparing pre 2004 benefits backdated to NRA with post NRA revaluation, and whilst in that case the difference is marginal that is not true of all members.

We do not believe that either the cost or the number of members has been tested and this should be carried out on a sample group. It seems odd and inconsistent that FAS will not recognise pre-2004 benefits but will use annuity factors that applied before that date.

### **Different Payment ages**

We are pleased that if there is a scheme specific provision for an earlier retirement age without consent then this should be paid. If members are able to produce proof of this option we expect FAS to consider it, and if correct, to then accept the earlier NRA.

### **Early access**

We are pleased with the progress made in connection with the now three ill health categories although we wish to very strongly make the following observations:

- We still feel that the 5 year cut-off period from NRA is unfair and in fact discriminates against those with an NRA of 65. We believe a fairer way is to allow FAS awards to be paid from age 55 with the appropriate actuarial reduction.
- Experience is already showing that particularly members who are terminally ill are reluctant to take the benefit when they see the reduction for both themselves and their spouse/partner.
- There is also the interplay with state benefits which stops some claiming the benefits at an early stage.

### **Non ill health voluntary early retirement**

We feel strongly that Voluntary Early Access should be available, albeit with appropriate pension reduction, from age 55 irrespective of health considerations, and scheme NRA, this is available under PPF rules and is a no cost option for the government. Again the same reduction and interplay with state benefits may come into to effect but at least in the current economic climate the FAS would be giving people who are made redundant (and who frankly will probably not get any further employment) some hope and an option. It may actually help reduce benefit claimants and will increase the immediate spending power of FAS recipients to the benefit of the wider economy.

### **Tranches**

This is quite a complex area and one where we understand there are outstanding legal issues, but we feel strongly that if a member has some rights at different ages those rights must be paid from the date due WITHOUT ACTUARIAL REDUCTION.

This is what the scheme would have provided for and if bought out would be paid from the date of entitlement, and the only adjustment (as in any benefits) is if the pension due is actually deferred to a later date.or indeed taken earlier than due by entitlement The PPF does pay benefits in tranches so why should FAS not do the same? It is very unfair to penalise people who rightly had an earlier pension expectation on perhaps a major portion of their benefits.

### **Bridging Pension**

Bridging pensions were designed to protect members' benefits during the period before state benefits kicked in and we feel the best way is to provide 90% of the step up for the period of the step up and thereafter it will fall away and 100% of the state benefits will

then be paid.

### **Assistance Calculation**

Reference is made in this section to annuity rates and we feel the impact of a rapidly changing market must be kept under review, with the ultimate objective of members actually getting 90% of what they expected.

Members often took decisions based on information at a time before FAS existed (Before May 2004) and they should not be penalised by FAS if current assumed rates mean a lower result. It seems odd and inconsistent that FAS will not recognise pre 2004 benefits but will use annuity factors that applied before that date.

### **The Cap**

The value protection approach being proposed seems fair, although we strongly feel that the cap penalises long service members, and the cap revaluation basis gives weight to our argument about the need for better post retirement indexation. Members who have lengthy service and have had no other pension provision because of their service & salary are penalised, many having their headline benefits reduced to around 50% or lower. If there is a period of deflation we do not expect the cap to reduce or indeed any other benefits to reduce.

### **Assistance for survivors**

There may be people who are in the position of benefiting from this welcome change but whose scheme rules have not been amended due to the timing of the insolvency event and changes to their own circumstances in the interim period up to this amendment. We would wish to see FAS recognise this in the final regulations reflecting current best practice.

### **Scheme members with high asset shares**

What is vital here is that any members who currently or will in the future receive benefits higher than FAS either initially or as a result of scheme indexation must not have their benefits reduced. There is a question of how FAS treats someone on say, 85% with full service escalation. Will they get a top up until their increased benefits exceed the FAS level of compensation of 90% plus post 1997 escalation?

### **Tax Free Lump Sums**

We welcome the decision to allow the GMP value to be commuted. We do have serious concerns, however, for members who were depending on a lump sum to repay loans and who do not have the sufficient scheme share of assets to allow this working past their NRD. Although the government will argue about the adverse cash flow effect it should remember that it is about to receive an influx of about £1.7 billion from schemes.

**Terry Monk**

**Independent Trustee Services**

**23<sup>rd</sup> March 2009**