



Trust and Pensions Parliamentary Ombudsman Report

Presentation to All Party Pensions Group

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Outline

- Worse scandal than Maxwell
- Constitutional implications
- What happened?
- Causal connections - Government caused the injustices
- FAS compounds problems
- How to organise compensation



Michael Eaglestone – age 65

- Worked 38 years at Dexion as a welder
- Could have retired at 60, firm asked him to stay to 62
- Trusted Government assurances of safety, so stayed on
- Dexion failed weeks before 62nd birthday
- Been working nights since 2003, no holidays
- Now age 65, prostate cancer major surgery
- Losing £90 a week SERPS, no FAS
- Trustees have money to pay him now, but not allowed



John Brooks – age 67

- Worked 42 years at Early's of Witney
- Pension offered in 2002, but then company said stay
- Had read all Government material – believed he was safe and protected by law, no idea of priority order
- For last 4 years working 4 days a week to avoid poverty
- Now has leukaemia, having chemo, had to cut back to 2 days a week
- No FAS, losing £21 a week SERPS
- Needs his pension NOW



Unprecedented injustice

- 'More momentous than the Maxwell scandal'
- Maxwell pensioners rescued within weeks: that was fraud
 - FAS totally inadequate as a rescue - shameful
- Unacceptable to leave pensioners without their pensions
- Unprecedented challenge to Parliament's Ombudsman
- How can MPs protect their constituents against Government's abuse of power?
- Yes it's pensions, yes, it's complicated
 - But do you think it's right?



Where do you stand?

- Not just about pensions – constitutional implications
- How can the public have confidence in an Ombudsman that Government does not respect?
- Unite behind PASC – it's maladministration, get over it!
 - This is the fault of the Government – mis-selling
- Behind the scenes pressure?
- Cross party co-operation
- Can we get enough votes – honesty, integrity, trust



How to organise rescue - summary

- Take contracted out benefits back into SERPS/S2P – now
 - National Insurance fund in surplus
- Trustees to pay pensions out of scheme funds – now
 - Stop and if possible unwind annuities
- FAS replaced/reformed – into PPF, £100-£150m a year
- Use unallocated DWP funds
- Use contingency reserve
- Look at who else Government could recover money from



What next?

- Judicial Review
 - DWP accept public interest case but still threaten costs
- EU action
- Demonstrations (November 5th), petitions, Saga, media
- Parliamentary debate - cross-party group to challenge Ministers
- Government must admit maladministration
- Compensation – urgent payments from scheme assets



It's not about the Schemes, it's about the Members

- Parliament intended post-Maxwell measures to improve security – that is what the public was told
- Minimum funding requirement (MFR) regime was originally intended to ensure sufficient money for wind-up
- This is not just about leaflets or insolvent employers or underfunded schemes
 - 100% funded, many employers solvent
- It's about false assurances of safety, inadequate protection and careless oversight of the pensions regime
- Plus sustained campaign of misinformation, providing reassurances of safety even as security kept weakening



DWP leaflets 1998 to 2004 said:

- For example: 'Occupational Pension Your guide'
- 'How do I know my money is safe?'

'Although your employer pays into the scheme and may be a trustee, the assets of the pension scheme belong to the scheme, not to your employer...you are protected by a number of laws'

'If an insolvent (bankrupt) employer has removed your pension scheme's assets dishonestly, the Pensions Compensation Board can compensate you'
- No mention of risk, but does mention insolvency – anyone reading this believed that their pension was safe



What Government said:

- 'We published a new series of DSS pension leaflets ... providing clear and unbiased information...promoting awareness of the benefits and risks' – *1998 Green Paper*
- 'Governments should not put people in a position in which they do not have adequate pension cover' - *2000*
- DWP standards: ALL information and advice (both general and specific) must be accurate and complete - *2001*
- 'where we choose to give information it is incumbent on us to ensure it is accurate, complete **and can be relied on**' – *DWP legal advice 2002*



Government defence

- Members should not have relied on official information!
- Leaflets made clear people should take advice: **not true**
- Material fit for intended audience: not meant for members
 - **Leaflet says this is intended for members!**
- Wind-up risks not mentioned because insolvency rare:
 - **Hundreds of firms bust, solvent schemes wound up too**
- These were employer schemes: **but Government endorsed**
- Trustees responsible for member security: **powerless**
 - **No discretion on wind-up, *trustees* did not know**



Maladministration and Policy

- Ombudsman pointed out more than maladministration
- Maladministration is clear
 - Leaflets and official 'information'
 - MFR changes
 - Warnings ignored
- Policy framework too: wind-up rules unfair to older members
 - Priority order takes people's money away
 - No protection for state pension rights either
 - Annuity costs soared – monopoly pricing



This is the Government's fault

- Government suggested pensions were 'absolutely' not just 'relatively' safe
- Government put in the rules of wind-up and priority order
- Government encouraged people to join, informed them about benefits, no mention of risks of wind-up
- Oversight of MFR ignored relevant factors – in particular ignored member security on wind-up
- Mis-selling requires compensation
- No other country has done this to members – and losing state pension rights too!



Geoff Kattie, age 67, no FAS 38 yrs in Perivan scheme

Scheme pension due: **£86pw**

Now getting: **£17pw**

Of this, GMP was **£48pw**

About one-third of GMP!

Occupational pension £38pw

**No occupational pension at all!
No FAS yet either**

State pension statement shows £48pw deducted from his state entitlement because it should come from his company scheme. But it isn't!

If he had never put any money in company scheme he would now have £31pw more and would have had use of the 38 years' worth of pension contributions!
Wife diagnosed cancer



Unfair arguments against compensation

- No-one really read the leaflets, or relied on them
 - Convenient excuse but not true, insulting
 - If you can't trust Government who can you trust?
 - Even trustees relied on official information
- Government didn't cause the schemes to fail and not responsible for the losses
 - Government rules took long-serving members' money away on windup - annuities, priority order
 - Never told this was an 'investment', not diversify
 - Denied them the chance to look after themselves



Causal connections

- If known about priority order, some could have retired, transferred out, saved elsewhere, encouraged more employer funding, not transferred in, no AVCs etc
- Could have taken life assurance, spent less, moved job - too late now – members were denied informed choice
- Not about the schemes, it's about the members - systemic
- Problem is not that schemes wound up or employers went bust, but that Government said these pensions were safe
- If Government hadn't suggested pensions safe – whatever happens - members would not have thought so
- Funding standards inadequate, priority order unfair, no other pension allowed



Injustices of FAS – not like Maxwell

- Not based on 'expected pension'
- Wait till 65 even if scheme age 60 – and wind-up finished
- No recognition of lost state pension rights
- No inflation linking on any payments
- No tax free lump sum – all payments taxable
- £12,000 cap, cap not indexed (worth £8000 in 15 years)
- No life assurance, widows benefits much lower, ill health
- Excludes solvent employer scheme members
- All other members get less because of FAS



Would cost about £3billion

- **NOT** £15 billion – cash costs not relevant over 60 years!
- Does not account for tax paid and benefits not paid
- Actual cost around **£100-£150million** a year – can come from taxpayers or other sources
- Government not even tried to find rescue package
 - FAS is £540m over 60 years (£2.3bn is just cash cost)
 - Not 80% of 'expected' pension – misled MPs
- FAS just not recognising urgency, too slow, exclusions



How to rescue people now

- Interest free loan to get back into SERPS for free
- Allow trustees to use scheme assets (unwind annuities?)
 - Trustees have money to pay, but not allowed to
- Admit maladministration – what price justice?
 - Pensions tax relief > £20billion a year
 - Contracted out rebates > £11billion a year
 - £1.5m lifetime limit changes to cost £hundred millions
- Not all from taxpayer – pursue employers, actuaries, unclaimed assets, pay back tax taken on insolvency etc.



Potential sources of funds

- Investigate actions of employers
- Venture capitalists – ‘restructuring’ jettisoned pensions
- Actuarial profession – no warnings, no care of members
- Banks, life assurers, pension providers: restore confidence
- Lottery funding?
- Unclaimed assets:
 - Banks/building societies - £400m
 - Life policies - £1bn
 - Pension policies - £3bn
 - National savings - £3bn



Summary

- These people will not go away – PASC, JR, Saga
- Compensation urgent NOW
- Democracy and Justice
- White Paper to encourage personal responsibility and savings culture - cannot succeed if this left unresolved
- If they are not compensated, how can anyone ever trust Government or pensions?
- Confidence and Trust