



House of Commons
Public Administration Select
Committee

**The Pensions Bill and
the FAS: An Update:
Government Response
to the Committee's
Eighth Report of
Session 2006–07**

**Second Special Report of Session
2006–07**

*Ordered by The House of Commons
to be printed 11 October 2007*

HC 1048
Published on 17 October 2007
by authority of the House of Commons
London: The Stationery Office Limited
£0.00

The Public Administration Select Committee

The Public Administration Select Committee is appointed by the House of Commons to examine the reports of the Parliamentary Commissioner for Administration, of the Health Service Commissioners for England, Scotland and Wales and of the Parliamentary Ombudsman for Northern Ireland, which are laid before this House, and matters in connection therewith, and to consider matters relating to the quality and standards of administration provided by civil service departments, and other matters relating to the civil service.

Current membership

Dr Tony Wright MP (*Labour, Cannock Chase*) (*Chairman*)
Mr David Burrowes MP (*Conservative, Enfield Southgate*)
Paul Flynn MP (*Labour, Newport West*)
David Heyes MP (*Labour, Ashton under Lyne*)
Kelvin Hopkins MP (*Labour, Luton North*)
Mr Ian Liddell-Grainger MP (*Conservative, Bridgewater*)
Julie Morgan MP (*Labour, Cardiff North*)
Mr Gordon Prentice MP (*Labour, Pendle*)
Paul Rowen MP (*Liberal Democrats, Rochdale*)
Mr Charles Walker MP (*Conservative, Broxbourne*)
Jenny Willott MP (*Liberal Democrats, Cardiff Central*)

The following Member was also a member of the Committee for part of this inquiry: Grant Shapps MP (*Conservative, Welwyn Hatfield*).

Powers

The Committee is one of the select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 146. These are available on the Internet via www.parliament.uk.

Publications

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at <http://www.parliament.uk/pasc>.

Committee staff

The current staff of the Committee are Eve Samson (Clerk), James Gerard (Second Clerk), Louise Glen (Committee Assistant), Anne Woolhouse (Secretary) and James Bowman (Senior Office Clerk).

Contacts

All correspondence should be addressed to the Clerk of the Public Administration Select Committee, Committee Office, First Floor, 7 Millbank, House of Commons, London SW1P 3JA. The telephone number for general enquiries is 020 7219 3284; the Committee's email address is pubadmincom@parliament.uk.

Contents

Report	<i>Page</i>
Second Special Report	1
Appendix	1
<i>The Pensions Bill and the FAS: An Update: Government Response to the Committee's Eighth Report of session 2006-07</i>	1
List of Reports from the Committee during the current Parliament	8

Second Special Report

The Public Administration Select Committee reported to the House on *The Pensions Bill and the FAS: An Update* in its Eighth Report of Session 2006-07, published 13 July 2007 as HC 922. The Government Response was received on 26 July 2007 and is published below as an Appendix to this Report.

Appendix

The Pensions Bill and the FAS: An Update: Government Response to the Committee's Eighth Report of Session 2006-07

Thank you for your further report on the Financial Assistance Scheme (FAS). This letter provides the formal Government response. Of your conclusions and recommendations, only the following one was directed to the Government.

“Whatever the generosity of the scheme, and whatever the reasons for delay, the FAS will not help if it takes years to reach those who need it. We recommend the Government find ways of speeding up payment as a matter of urgency. (Paragraph 12)”

I welcome your acknowledgement that the Government has made considerable changes to the FAS to make it simpler and more generous. I understand the Committee's concern on the speed of payments and assure you that I am looking very closely at the administration of the scheme to find ways of ensuring all eligible members are paid as quickly as possible.

There is significant uncertainty over how many people are actually eligible for payment now and our best estimate is that there might be around 10,000 members within potential FAS schemes who have reached aged 65. As at 20th July 2007, only around 44% of the 683 schemes that qualify for FAS have applied for payments and provided acceptable data on their members. From these the FAS operational unit had conducted assessments on 5,001 people (including some aged under 65). There are no outstanding assessments and this represents all the people on who we have been provided with acceptable data by their scheme. There are 28 schemes that have applied for payments but have yet to provide acceptable member data.

Of the 5,001 that have been assessed as eligible for payments from the FAS. 1,962 are being paid now, 76 will be paid as soon as the individuals have confirmed their personal details and 519 will be paid as soon as they reach age 65. The remaining 3,039 were ineligible either due to the *de minimis* limit, the cap or because they have been assessed as having no entitlement under other FAS rules.

With Royal Assent of the Pension Bill, payments for those receiving initial payments which are currently 60% will be increased to 80%. Also as soon as the changes to the FAS announced in the Budget come into effect (which we hope will be at the end of the year), all relevant qualifying members who are not currently eligible for payments because of the cap

and *de minimis* limit will be reassessed. In the meantime, any scheme members who believe they are eligible for a payment can contact the FAS Operational Unit direct on 0845 601 9941, who will then contact the scheme trustees to seek to arrange a payment.

To illustrate the challenge faced by the FAS Operational Unit, I thought it might be useful to share with you a practical example of the sort of case they deal with on a daily basis. This is attached as Annex A. It demonstrates the real difference that FAS is making under very difficult circumstances and also illustrates why glib criticisms of the FAS OU are ill judged.

The attached Annex B provides a more detailed explanation of the arrangements for making payments of FAS, the operational difficulties we face and the steps being taken to address them, which I hope you will find helpful.

MIKE O'BRIEN QC MP

July 2007

ANNEX A

FINANCIAL ASSISTANCE SCHEME – CASE STUDY

- The pension scheme began to wind up with 24 members in 2001. Only a handful of pensioner members actually received payments from the scheme at first, and these stopped completely in 2002, two years before FAS was set up. Since then no payments have been made to any scheme members.
- When we requested the scheme records in order to assess payments to individual members we were told that most of them had been lost. The records that did exist were insufficient to determine payments.
- FAS staff worked to trace the whereabouts of members and pieced together the data they need to assess eligibility. This involved contacting known members, former administrators and actuaries, the Pensions Regulator, HMRC and other parts of DWP.
- Most of the scheme members had given up hope of seeing their scheme pension. In many cases they were not even aware that their scheme had applied to FAS. To date we have awarded payments ranging from around £1000 to £4000 per annum, with arrears of up to £8500. This is making a real difference to people who had given up hope and is a demonstration of the dedication and skills of FAS staff.

ANNEX B

OPERATION OF THE FINANCIAL ASSISTANCE SCHEME

Scheme Eligibility

A pension scheme must go through two simple stages to be accepted as a qualifying scheme for FAS:

- a) Notification: where the FAS Operational Unit is supplied with basic details of the scheme such as its name and the name of the associated employer; and
- b) Qualification: where, following Notification, the FAS Operational Unit is provided with information and evidence to demonstrate that the scheme meets the FAS qualification criteria (e.g. that it is not a money purchase scheme, that it began winding up between 1st January 1997 and 5th April 2005 and that the relevant employer has undergone an insolvency event).

The vast majority of potentially eligible schemes have already completed one or both of these stages.

Member Eligibility

The next stage is for qualifying schemes to provide the Operational Unit with the data needed to assess individual eligibility for payment. Where a scheme has completed winding-up then they are required to provide data on all their members (although, in practice, the Operational Unit has agreed that information should be provided on those members at or approaching the FAS payment age in the first instance). This data includes personal details to allow us to ascertain the age of, and to contact, the member, as well as standard information on their accrued pension rights and the pensions and other benefits they will actually receive from their scheme. Generally between 15 and 20 items of data are required, 5 relating to members personal data and the remainder to their actual and expected pension. This is comparable with the requirements of the Pension Protection Fund.

We have provided flexibility in the format in which this information can be provided and taken on board feedback from schemes in order to make our requirements as straightforward as possible. Once appropriate information is received then we are generally able to make payments to those eligible within a month (subject to their confirming personal details and providing bank account information).

It is not true to say that FAS prevents payments to members whose schemes are still winding-up. Between Normal Retirement Age (“NRA”) and 65 the responsibility for paying ‘interim pensions’ to such members rests with the trustees or administrators of a scheme and FAS does not interfere with their discretion to do so. From 65, FAS top-up payments can be paid to such members at the request of trustee as described below.

What scope is there for payments between scheme pension age and state pension age?

Payments from the Financial Assistance Scheme (FAS) to eligible members generally commence at age 65 (the age at which entitlement to state retirement pension for men and

women will have equalised by 2020). 65 was chosen to provide consistency between schemes with different NRAs and to make most effective use of the funding made available to the FAS. FAS can be paid before 65 where a member is terminally ill. FAS can also be paid to the surviving spouse or civil partner of a qualifying member, regardless of their age.

Schemes that have completed wind-up

Where a scheme has completed winding-up, an annuity will typically have been purchased that generally pays a pension from a member's NRA. Assuming FAS is provided with relevant information then when that member reaches 65 that 'actual pension' will be topped up to 80% of their expected core pension by the FAS.

Schemes that are still winding-up

Where a scheme is still winding-up, trustees have the discretion to pay 'interim pensions' to those who have reached their NRA. Interim pensions are generally set on actuarial advice by reference to the funding level of the scheme and the likely amount that will be secured for the member by way of annuity at the end of wind-up. If a member reaches 65 and the scheme is still winding-up then, at the request of trustees, FAS will top their interim pension up to 60% of their expected core pension.

60% was designed to be a 'safe rate' to ensure that overpayments did not occur if, on completion of wind-up, trustees were able to pay pensions of a much greater value than anticipated during wind-up. Operational experience to date has shown that trustees are able to predict with some accuracy what they will be able to secure for members on completion of wind-up. In light of this we will raise the level to which FAS initial payments top up any interim pension in payment to 80% from Royal Assent of the current Pensions Bill.

We are aware that there are circumstances in which trustees choose not to pay interim pensions to members from their NRA. This can be because of uncertainties about what that member is entitled to receive or because the scheme is close to completing wind-up and the expense of setting up a short term pay-roll process for a few individuals is therefore disproportionate. FAS can still pay initial payments to members who reach 65 in these cases if the trustees ask us to do so and supply the information we need to calculate entitlements.

The role of trustees in making initial payments

As mentioned already, under FAS legislation trustees must request initial payments on behalf of members who are approaching 65 or who are eligible for early access payments because they are terminally ill or an eligible survivor of a qualifying member. The involvement of trustees is necessary as they hold the data needed to make assessments of FAS awards.

We have recently announced that we wish to hear from individual scheme members who have reached 65 and are not receiving FAS. We are encouraging them to contact the Operational Unit direct on 0845 601 9941 to discuss their circumstances. We are then undertaking to contact their scheme trustees or administrators to ascertain whether entitlement exists and work with them to ensure that any payments due are made.

Why might a qualifying member not be getting FAS even though they are eligible and have reached age 65?

At present, there are a number of reasons why someone who is 65 or older might be eligible for FAS but not yet receiving payment

a) Impact of the cap and de minimis

At present, FAS will not top-up 'actual pensions' or interim pensions paid in excess of £12,000 a year. The Government has announced that it will raise this cap to £26,000.

Equally, at the moment, FAS does not pay awards determined to be less than £520 a year. The Government has said that it will abolish this rule and members will be entitled to payment regardless of the amount.

b) Receiving over 80% (or 60%) of their expected core pension from their scheme

Under the current rules, an eligible member will not receive help from FAS if the value of their actual pension is 80% or more of their expected core pension (until Royal Assent of the Pensions Bill this stands at 60% in the case of initial payments).

c) Trustees have not requested payment or supplied data

As touched upon earlier, trustees may have genuine reasons for not requesting payments and so not providing data. These could be because they believe their members will not be entitled to FAS because of the *de minimis*, cap or level of top-up or because they are close to completing wind-up.

d) Member may have declined payment

Because initial payments are based on the interim pension being paid to a member, rather than the final actual pension they secure by way of annuity, it is possible that a member could receive more FAS than they are entitled to during wind-up. Some members have elected to decline initial payments until their final FAS award can be determined. It should be noted that in all such cases, arrears will be paid back to members' 65th birthdays or 14th May 2004 (whichever is the later) once an annual payment has been determined.

e) Cannot trace

We rely on trustees to have up-to-date and accurate records of their members in order to contact them about their potential FAS entitlement. However, particularly where schemes have wound up some time ago, this is not always the case. As a part of the DWP we are able to draw on alternative sources of data to trace members (and have done so in a number of cases), but there may be former members of qualifying schemes who we are unable to contact.

What more is being done to improve the operations of the FAS?

The key to FAS operations is the ability of trustees and administrators to cooperate and to deliver the information we require. We have involved them at every stage of the schemes development and our data requirements represent what we have been assured is reasonable and accessible.

We have visited administrators and trustees representing over 300 schemes (and over 70% of scheme membership) to explain our requirements and to explore how we can work together effectively other to ensure that members receive the assistance to which they are entitled. We are widening this area of work in the coming months, revisiting the scheme professionals. The meetings focus on the individual schemes in the professional's portfolio with a view to identifying all options for increasing member payments.

We are also improving communications with industry professionals. Recent developments have involved appointing a Dedicated Customer Account Manager for each trustee, and issuing email bulletins highlighting topical FAS issues that may be inhibiting the delivery of member data and providing guidance on how to deal with them.

Initial work has been completed with the Pensions Regulator on how to use their influence to raise the priority level assigned to Financial Assistance Scheme data by administrators and trustees. We continue to work together and are currently considering the feasibility of some joint initiatives planned for later this year which include referring schemes for appointment of new trustees where they are being reluctant or not running scheme effectively and sharing information on schemes in wind up.

We are also reviewing our enforcement powers which would involve taking summary proceedings against administrators and trustees who hold data but refuse to provide it within a reasonable timescale.

List of Reports from the Committee during the current Parliament

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2006-07

First Report	The Work of the Committee in 2005-06	HC 258
Second Report	Governing the Future	HC 123 (<i>cm 7154</i>)
Third Report	Politics and Administration: Ministers and Civil Servants	HC 122
Fourth Report	Ethics and Standards: The Regulation of Conduct in Public Life	HC 121
Fifth Report	Pensions Bill: Government Undertakings relating to the Financial Assistance Scheme	HC 523 (<i>HC 922</i>)
Sixth Report	The Business Appointment Rules	HC 651
Seventh Report	Machinery of Government Changes	HC 672
First Special Report	The Governance of Britain	HC 901
Eighth Report	The Pensions Bill and the FAS: An Update, Including the Government Response to the Fifth Report of Session 2006-07	HC 922 (<i>HC 1048</i>)

Session 2005-06

First Report	A Debt of Honour	HC 735
Second Report	Tax Credits: putting things right	HC 577 (<i>HC 1076</i>)
Third Report	Legislative and Regulatory Reform Bill	HC 1033 (<i>HC 1205</i>)
Fourth Report	Propriety and Honours: Interim Findings	HC 1119
Fifth Report	Whitehall Confidential? The Publication of Political Memoirs	HC 689
Sixth Report	The Ombudsman in Question: the Ombudsman's report on pensions and its constitutional implications	HC 1081
Seventh Report	The Ministerial Code: the case for Independent Investigation	HC 1457
First Special Report	The Attendance of the Prime Minister's Strategy Adviser before the Public Administration Select Committee	HC 690
Second Special Report	Ministerial Accountability and Parliamentary Questions: Government Response to the Committee's Fifth Report (Session 2004-05)	HC 853
Third Special Report	Inquiry into the Scrutiny of Political Honours	HC 1020