Written evidence from John Cavanagh (PPF0036)

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Member of Pensions Action Group.

Thank you for allowing me this opportunity to address the enquiry, and hopefully give first hand experience of the workings of the Regulator, defined benefit schemes in general, and the role of trustees and administrators, and make suggestions for redressing current lifeboat deficiencies, and PPF /FAS reform.

Executive Summary

1. Regulator

. Regulator asked to intervene and take action several times prior to, and following, Petrochem Carless Final salary scheme (PCLFSPS) wind up 2004 and entry into FAS, 2013.

. Failed to act and refused to even discuss with complainants, the scheme members, keeping secret their reasons and their findings, one request to them cost the scheme £16 k for no response from them, saying all such information was no concern of the members!!

. The Tpr allowed company/owner to bamboozle new member trustees by it's failures to intervene in time or at all, and threaten company closure against the facts in 2004 High Court wind up, and precipitated commencement of wind up.

. Following decision to enter FAS in 2013 members again asked Regulator to adjudicate, following a judicial review into wind up in 2004, and professional trustee/administrator guidance over increases, but again failed to intervene, whilst PPF accepted findings.

2. Trustees, Administrators and Relationships

. In both the scheme windup action in 2004, and subsequent entry to FAS in 2013-15, professional trustees and administrators endlessly hindered and blocked member attempts to get information, and become involved in judicial review, and it's subsequent findings/actions.

. As result of independent judicial review actuary (administrator) was criticised over post wind up advice, and professional trustees also sanctioned for accepting the advice and it's recommendations.

. Trustees and administrators charged scheme fund, the members savings, in excess of £1 million, over and above normal scheme costs, to enter FAS over 2 year period, and still FAS sent their work back as inaccurate.
In truth the whole trustee system is not fit for purpose, and operates for benefit of the professional trustees, administrators, legally prevents member's obtaining information other than annual accounts, and the myriad ancillaries like auditors and solicitors, who are only interested in their bottom line and profit.

Design of Pensions savings systems, defined benefit and defined contribution, are overly complicated and should be simplified into a straightforward savings scheme, without trustees, administrator and solicitors, financial advisor and their burden of costs. It's a sign of their own self importance that they congratulate themselves every year with numerous awards.

3. PPF and FAS

- Both were sympathetic in general to members' financial situations, but we're poor on explanation, and lacked understanding of their own (FAS) overly complicated calculations system, which seemingly was designed to minimise payments to pensioners at every turn. Only their external actuaries understood the calculations.

They all caused protracted distress and suffering to members and a wholesale reprocessing of members pensions after member challenges to the figures.

4. PPF Feasibility and Funding

- FAS schemes that failed have donated £1.7 billion to Treasury, but FAS have only paid out £0.65 billions to members. (PPF accounts 2014/5) in pensions since 2004.

It can never be said therefore, as government seems continuously to state, that FAS uses taxpayer's money to fund company pensions within FAS.

- PPF scheme is self financing, makes approx 25% return on funds from failed companies, levy and errant employers.

- Yet FAS members in particular are denied use of their own monies (£1.1 billions) to give proper indexation (pre 1997 contributions do not count), low pension cap and May 2004 cut off, and have to make repayments to FAS of their own money!!

5. Recommendations

- Merge FAS and PPF funds generating an extra £300 k p.a. for enhanced FAS and PPF benefits. Would make regulator redundant.

- Government persist in saying they cannot give more money to FAS members as its public Money.
This is untrue, as £1.1 billions of members money are sitting in treasury coffers having used just £0.65 billions of their money in paying pensions entitlement since 2004.

For DWP and others it has cooled, it is not taxpayer’s money, it is members money, and this is still in surplus.

. Amend FAS and PPF legislation to give full restitution of members earned benefits, full indexation, no repayments, no cap, no May 2004 cut off.

. Simplify FAS and PPF calculations on pensions, rather than complicate them so that members never get anywhere near their accrued pensions. (The FAS calculations are a world apart from the standard 40/60 ths final salary members understand.

. Restrict power of professional trustees and administrators, so that no longer can they withhold information from members of their own schemes running.

. Or do away with trustees system, of vested interests, simplify defined benefit savings in PPF hands, so that pensioners and savers understand and know what they will get. It should be simple and straightforward really, within a combined FAS and PPF scheme.

6. My story

Joined Petrochem Carless in 1976, joined pension scheme in 78, contributions of 25 years.

Company taken over in 1990’s by Spanish company, who failed to keep up contributions, regulator failure, plus company holidays from contributions, so deficit arose, prior to that scheme was in surplus and run internally.

Introduction of external administration and trustees saw no improvement, deficit hit £17 millions, with fund valued at £33 millions by 2004, I retired in 2003.

Trustees restricted increases to 1.5%, for 5 years from 2005, scheme minimum was 3,0,%, then no increases from 2010.

Owners by then had changed and company didn't do well, but 3 directors arranged MBO, and arranged Bradstock agreement in High Court, in 2004, triggering wind up, where owners put in £1 millions to scheme as final contribution and MBO took over, knowing they had sold members down the river, but a few years later sold company at approximately £ 50 million profit between the three ex directors.

Members were denied details of the High Court action until it had happened, and new, inexperienced member nominated trustees were duped by owners, putting jobs before members, yet again regulator failed to act for members, despite one month pre advice rule being broken.
Owners forced member nominated trustees and professional trustees to sign confidentiality agreement, withholding information to members, regulator allowed to happen, and compromise agreement signed leading to approval in High Court in 2004.

Afterwards MNTS realising their naivety tried via the regulator to challenge the High Court action, the regulator asked for details, but failed to divulge its findings, did nothing, and the exercise cost the fund £16k

Members only allowed to see both documents in 2013 after persistent pressure from members.

Professional trustees gave up the fight after wind up, to keep scheme running as closed scheme, and in 2013 took scheme into FAS, completing process over 2 years later, November 2015, at extra cost to members fund of over £1 million, but both professional trustee and administrators criticised by FAS for errors in members data transfer.

Members fought running battle for this period, as professional trustees and administrators, actuaries, and scheme solicitors, prevented members access to information, but members obtained an independent legal review into High Court action, and the conduct of trustees and administrators post wind up.

Review (DWF) found nothing illegal in High Court action, although members believe it was not given all relevant documents, and could not comment on the morality of High Court action, but administrator acting as actuary, were found guilty of incompetence, and professional trustees guilty of poor judgement in backing administrator over the 5 years of increases, and the running of the scheme from 2004 to 2011. FAS agreed with review findings.

Again, following a personal complaint to the regulator by a member, the regulator was furnished copies of the DWF report, and the last 2 years scheme accounts, showing the scandalously excessive £1 million taken in costs by trustees and administrators.

The regulator refused to give any details of its findings, if any, and went as far as to say it was none of the members business and was secret.

A seemingly cosy relationship between regulator, pensions trustees, administrators, and no doubt other ancillary companies, who benefit enormously from the pensions industry, whilst members are treated as irrelevant, while regulator stands aside.

Then followed a protracted period where members arguing with FAS for clarity on their decisions on member "compensation", forgetting it's members money, not taxpayer's.

FAS admitted they had made mistakes in their process and communication, and along with PAG we pointed out ways of improvement.
Many FAS decisions were overturned on appeal, particularly repayments, but still we have little confidence in the overly complicated calculations process, designed to minimise FAS pensions payments.

Despite government and ministers at DWP claiming it's taxpayer's money, the PPF accounts clearly shows government in credit to tune of £1.1 billions, after paying only £650 millions to FAS members since 2004, in pensions.

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