

Freedom of Information request 760/2011

Received 10 March 2011

Published 21 July 2011

Information request

The impact of using CPI as the measure of price increases on private sector occupational pension schemes.

Please provide copies of submissions, if any, in relation to the above consultation from the following companies. Please also provide copies of submissions from representative groups of pensioners in schemes run by those companies. Finally, please provide copies of submissions made by trade unions representing employees at the companies listed below:

3i Group
ARM Holdings
Admiral Group
African Barrick Gold
Aggreko
Alliance Trust
Amec
Anglo American
Antofagasta
Associated British Foods
AstraZeneca
Autonomy Corporation
Aviva
BAE Systems
BG Group
BHP Billiton
BP
BT Group
Barclays
British Airways
British American Tobacco
British Land Co
British Sky Broadcasting Group
Bunzl
Burberry Group
Cairn Energy
Cadbury/Schweppes
Capita Group
Capital Shopping Centres Group
Carnival
Centrica
Compass Group
Diageo
Essar Energy

Eurasian Natural Resources Corporation
Experian
Fresnillo
G4S
GKN
GlaxoSmithKline
HSBC Hldgs
Hammerson
ICAP
IMI
Imperial Tobacco Group
Inmarsat
InterContinental Hotels Group
International Consolidated Airlines Group
International Power
Intertek Group
Invensys
Investec
Johnson Matthey
Kazakhmys
Kingfisher
Kraft
Land Securities Group
Legal & General Group
Lloyds Banking Group
Lonmin
Man Group
Marks & Spencer Group
Morrison (Wm) Supermarkets
National Grid
News International
Next
Old Mutual
Pearson
Petrofac
Prudential
RSA Insurance Group
Randgold Resources
Reckitt Benckiser Group
Reed Elsevier
Resolution
Rexam
Rio Tinto
Rolls-Royce Group
Royal Bank Of Scotland Group
Royal Dutch Shell
SABMiller
Sage Group
Sainsbury (J)
Schroders

Scottish & Southern Energy
Serco Group
Severn Trent
Shire
Smith & Nephew
Smiths Group
Standard Chartered
Standard Life
TUI Travel
Tesco
Tullow Oil
Unilever
United Utilities Group
Vedanta Resources
Vodafone Group
WPP
Weir Group
Whitbread
Wolseley
Xstrata

Any other details that may help us to identify and locate the information

DWP response

The requested responses are attached. Personal e-mail addresses and direct telephone numbers have been removed.

We have published all the responses from organisations in the above list. None of the other organisations in the above list replied to the consultation.

The information was originally withheld under section 22 of the Freedom of Information Act 2000 as it was being held with a view to publication at a future date.

The Government response to consultation was published on 16 June, and the information requested can now be made available.

One response has been withheld pending clarification as to whether the information contained is confidential.

From: Martin J 'Legal' Smith **Information redacted**

Sent: 02 March 2011 17:02

To: PENSIONS Adelphi SFT

Subject: Consultation Paper: The impact of using CPI as the measure of price increases on private sector occupational pension schemes

Dear Sir,

Aviva welcomes the opportunity to comment on this consultation paper.

General comments

In moving from RPI to CPI as the revaluation basis for increases, schemes and providers would be taking on liabilities for which there are currently no matching assets. Until a market for such assets develops they would be exposed to increased investment risk. The development of such a market would be greatly assisted by the early introduction by the Government of CPI-linked gilts.

The implementation timescales for schemes and the industry have been very challenging, evidenced by the current consultation exercise still progressing even though some of the changes have already been introduced. Schemes moving to a CPI basis should be in the position of reducing costs, but in the absence of any real market for CPI assets (see above) it may actually increase costs. The lack of time also means that administrative systems have no chance of being enhanced to cope with the change in time for the two relevant government orders, one of which has already been made.

Consultation questions

Q1: The Government welcomes views on whether the impact of using CPI has been correctly summarised

The Impact section doesn't acknowledge that some scheme rules may specify RPI increases although the original intention of the scheme was always to mirror statutory minimum increases.

Q2: The Government welcomes views on whether it is right to apply the employer consultation requirements in respect of changes to scheme rules on indexation and revaluation

As increases can be a significant part of members benefits then we believe it is reasonable that changes to indexation or revaluation should be listed changes under the employer consultation requirements.

Q3: The Government welcomes views on the draft Occupational Pension Schemes (Consultation by Employers) Amendment Regulations 2011

The draft wording suggests in new paragraph (h) of regulation 8(1) that consultation will be required where the pension increase or revaluation rate 'would be less generous to members'. Where increases are subject to an Index then it will be very much a judgement call as to whether or not this is the case. It would be better if the wording concerned read 'would be expected to be less generous to members'

Q4: The Government welcomes views on whether there are any issues that should be considered in respect of career average arrangements

No comment.

Q5: The Government welcomes views on whether there are any issues that should be considered in respect of GMPs

We have no specific issues in respect of GMPs.

Q6: The Government welcomes views on whether there is any justification for overriding the rules of private sector occupational pension schemes to impose CPI as the measure of increase in prices

Although a statutory override would at least provide some clarity, we agree with the government that such a change would be inappropriate for the majority of the reasons given. In addition, introducing a statutory override retrospectively (as presumably it would have an effective date of 1 January 2011) would be problematic for schemes. Also, how would it be done when some scheme rules are deliberately drafted to provide RPI increases whilst other scheme rules only refer to RPI in an attempt to mirror the statutory minimum?

Q7: The Government welcomes views on whether there are other reasons why a scheme whose rules do contain a modification power would nonetheless be unable to, or find it difficult to, use CPI for indexation and revaluation.

Additional reasons for schemes having difficulty in using CPI for indexation and revaluation at a practical level include the lack of availability of CPI based assets and the need to change administration systems and processes to accommodate the change.

Q8: The Government welcomes views on whether it is right to rule out granting modification powers

The advantage of granting modification powers would be to clarify the position of such changes and remove the uncertainty concerning section 67 of the Pensions Act 1995.

Q9: The Government welcomes views on whether there would be a way to restrict any modification power to those schemes which had previously adopted RPI solely in order to match the statutory minima.

It's not clear why it would be necessary to restrict a modification power in this way. The granting of a general modification power does not in itself force schemes to modify, but simply makes it easier for them to do so if trustees decide to change the scheme rules and the rules themselves prevent it or make it difficult to do so. If trustees don't want to change their scheme rules then they simply won't make use of the modification power.

Q10: The Government welcomes views on whether you agree the issue of CPI underpins should be addressed

Yes, it should be addressed. We don't believe a CPI underpin should apply in any situation.

Permitting a CPI underpin would create liabilities which would be very expensive to match with assets, and thus significantly increase costs.

The legislation does need to be clear on whether an underpin applies. The Finance Bill as drafted is inconsistent in that it makes changes to remove the possibility of a CPI underpin applying to increases to pensions in payment but doesn't do anything similar to the legislation

applying to revaluation of deferred pensions.

i.e. Clause 14 in the Finance Bill is headed up 'Indexation and revaluation' but the new wording which attempts to remove the possibility of a CPI underpin is in section 5 (new paragraphs 4ZA to 4ZH), but that only amends section 51 of the Pensions Act 1995, i.e. pensions in payment. There doesn't appear to be any change of a similar nature to the revaluation requirements under section 84 of the Pension Schemes Act 1993.

It's not clear that a CPI underpin doesn't apply to revaluation of deferred benefits under section 84 Pension Schemes Act 1993. As there is specific wording to avoid a CPI underpin for pensions in payment, then the absence of a similar provision for revaluation of deferred benefits could be taken to mean an underpin does apply, which isn't what we believe should be the case.

Q11: The Government welcomes views on whether there are any other options to address the CPI underpin issue

No comments.

Q12: The Government welcomes views on whether the proposed amendments to remove references to RPI from primary legislation are satisfactory.

We have no other comments other than the concerns about the Finance Bill which are already shown under Q10 above.

Kind regards

Martin Smith

Research & Project Technician
Technical Services (COOT Change)
Aviva
Sentinel House (3rd Floor, Queens Road Wing),
37-43 Surrey Street, Norwich, NR1 3PG

Information redacted

This message and any attachment is confidential and may be privileged or otherwise protected from disclosure. If you are not the intended recipient please telephone or e-mail the sender and delete this message and any attachment from your system. If you are not the intended recipient you must not copy or disclose this message or attachment to any other person.

Aviva is the trading name for the principal subsidiaries of the Aviva Group in the United Kingdom. The principal subsidiaries are:

Aviva Insurance UK Limited.
Registered Office 8 Surrey Street, Norwich, Norfolk NR1 3NG.
Registered in England Number 99122.
Authorised and regulated by the Financial Services Authority.

Aviva Life Services UK Limited.
Registered Office 2 Rougier Street, York YO90 1UU.
Registered in England Number 2403746.
Authorised and regulated by the Financial Services Authority.

Aviva Health UK Limited.
Registered Office 8 Surrey Street, Norwich, Norfolk NR1 3NG.
Registered in England Number 2464270.
Authorised and regulated by the Financial Services Authority.

From: Sandra Sellers **Information redacted**
Sent: 08 February 2011 13:18
To: PENSIONS Adelphi SFT
Subject: response to consultation on CPI

This response is from ABAP The Association of British Airways Pension scheme members.

Consultation questions

> Q1: The Government welcomes views on whether the impact of using CPI has been correctly summarised Response
This section correctly identifies that for historical reasons a few schemes in the private sector have rules which specify pension increases in
> line
> with the Pension
> Increase order. British Airways has two such schemes and together these
> schemes provide benefits to over 80000 members. It would be very unfair if
> their accrued benefits were to be increased only by CPI as they are not
> publicly funded schemes and the resulting saving of flBN (a conservative
> assumption made by Towers Watson the scheme actuary) will accrue to IAG
> shareholders at the expense of the members. Members pensions will be lower
> on average over their lifetime and so they will pay less income tax and be
> more likely to claim means tested benefits thus placing more strain on the
> public purse to benefit a private company. Therefore we submit that some
> way must be found to remedy this accident of history and to free all
> private
> sector schemes from the effect of the change to the CPI in the Pension
> increase order.
>
> Q2: The Government welcomes views on whether it is right to apply the
> employer consultation requirements in respect of changes to scheme
> rules on indexation and revaluation
>
> Since revaluation and indexation form a large proportion of the value
> of a defined benefit it is essential that the employer consultation
> requirements should apply if either or both are to be reduced.
> Consultation should not be required where the custom and practice of
> basing
> both on the RPI is now to be written into the rules and so hard wiring the
> expectation.
>
>
>
> Q6: The Government welcomes views on whether there is any
> justification

> for
> overriding the rules of private sector occupational pension schemes
to
> impose CPI as the measure of increase in prices
>
> There is no justification for this either for accrued rights or
future
> service benefits. Government action to impose CPI disturbs the
> relationship between employer and its employees past and present.

> BA negotiated a series of cuts in future service benefits with the
> current active members which members would never have agreed to had
> they known that the pension increase order was to be based on CPI.
> Members accepted higher contributions and lower accrual rates
rather
> than accept a cap of 2.5% on indexation. BA itself has acknowledged
> that BA will save hundreds of millions
> of pounds that the company had expected and budgeted to spend on
benefits.
> Had members known about this they would have viewed these savings
as being
> available to offset the reductions in future benefits that they
accepted.
> Dialogue between management and employees is now underway in an
attempt to
> redress this.
>
> It is quite wrong for the government to legislate to reduce the
value
> of accrued rights.
>
> Members have made any number of decisions based on the
understanding
> that indexation and revaluation were linked to RPI ie whether to
pay
> extra contributions, whether to transfer out of the scheme, whether
to
> commute pension for a cash sum etc

> Pensioners should be able to rely on the state protecting the
income
> due
> to
> them from their employers (after all the pension protection fund
was
> introduced to do just that) instead the proposal is to impose
measures
> that
> allow companies to pay out lower pensions!!
>
> Q8: The Government welcomes views on whether it is right to rule
out
> granting modification powers
>
> Modification in the few private sector schemes which use the
pension
> increase order is difficult and the government should grant special
> statutory powers to them to replace references to the pension
increase
> order with RPI or CPI. In the Airways Pension scheme the trustees
have

> a unilateral power of amendment providing that no benefits already
 > accrued or
 > arising in the future are reduced. There is no need to get employer
 > consent.
 > However the trustees find it difficult to amend the pension
 increase rule
 > to some known basis as the pension increase order is not limited to
 using
 > RPI or CPI and in the future could use another measure. The
 Trustees of
 > the BA schemes are considering taking the issue to the high court
 to see
 > whether they can legally hard wire RPI increases into the rules.
 The risk of breaching the trust deed of a scheme by introducing a
 known
 measure to
 replace the pension increase order should be removed.
 >
 > Q10: The Government welcomes views on whether you agree the issue
 of
 > CPI underpins should be addressed and Q11: The Government welcomes
 > views on whether there are any other options to address the CPI
 > underpin issue
 >
 >
 > It is essential that this issue is addressed. Schemes should be
 able
 > to comply with the law by using either CPI or RPI. The statutory
 > minimum increase should be indexation using either index or indeed
 any
 > other appropriate index that measures the UK cost of living. (In
 > future a specific pensioner price index may be commonly accepted.)
 It
 > is not necessary for legislation to specify which index is to be
 used.
 Private sector schemes which have granted increases in line with the
 Annual
 Review Order should be exempted from the need for a CPI underpin just
 as
 those schemes with hard wired RPI are to be. Having used the Annual
 review
 Order and thus given RPI increases members expectations are met by
 continuing to give increases in line with RPI and not to receive a
 higher
 amount on the rare occasions when CPI is higher.

From: Regulatory Affairs **Information redacted**
Sent: 01 March 2011 16:25
To: PENSIONS Adelphi SFT
Subject: The impact of using CPI as the measure of price increases on private sector occupational schemes

Dear **Information redacted**,

I am responding to this consultation on behalf of Standard Life. Our reply is only to the questions which directly impact us.

Question 2.

The Government welcomes views on whether it is right to apply the employer consultation requirements in respect of changes to scheme rules on indexation and revaluation.

We believe the consultation requirements should be amended.

Question 3.

The Government welcomes views on the draft Occupational Pension Schemes (Consultation by Employers) Amendment Regulations 2011

For clarity, the new paragraph (h) should start 'to change the rate specified in the scheme rules at which -'.

There should not be a requirement to consult over decisions on the rate at which discretionary increases are paid.

Question 4.

The Government welcomes views on whether there are any issues that should be considered in respect of career average arrangements.

There are career average schemes that revalue by reference to the retail prices index. The current tax proposal is however to uprate the opening value at the start of a pension input period by the consumer prices index for active members rather than the retail prices index.

This means extra administration for career average schemes notwithstanding that the retail prices index would have been included in scheme rules before the tax changes were made.

Given that this is not required for deferred members, this should be reconsidered.

If you have any questions, please do not hesitate to get in touch with me.

Regards,

Jim McKay
Regulatory Affairs Consultant
UK Risk
Standard Life Plc
Standard Life House
30 Lothian Road
Edinburgh
EH1 2DH

Information redacted

This e-mail is confidential, if you are not the intended recipient, do not retain/disclose it and please return it to us. We virus scan and monitor all e-mails but are not responsible for any damage caused by a virus/alteration of our e-mail by a third party after sending.

For more information on Standard Life group, visit our website <http://www.standardlife.com/>
Standard Life plc (SC286832), Standard Life Assurance Limited* (SC286833) and Standard Life Employee Services Limited (SC271355) are all registered in Scotland at Standard Life House, 30 Lothian Road, Edinburgh EH1 2DH. *Authorised and regulated by the Financial Services Authority. 0131 225 2552. Calls may be recorded/monitored. Standard Life group includes Standard Life plc and its subsidiaries.

Please consider the environment. Think - before you print.

BALPA Response to – consultation on “The impact of using CPI as the measure of price increases on private sector occupational pension schemes” and the draft “Occupational Pension Schemes (Consultation by Employers – amendment) Regulations 2011”.

Set out below is the response of the British Air Line Pilots Association (BALPA).

BALPA is a professional association and trade union representing airline pilots, helicopter pilots, flight engineers and helicopter winch-men. It represents approximately 9,000 members employed by airlines and helicopter companies based principally in the United Kingdom.

Further details may be obtained from: <http://www.balpa.org/>

BALPA welcomes the decision not to enact legislation that would override scheme rules in respect of RPI and urges the Government to maintain its position in the face of any lobbying to reverse it.

BALPA supports the TUC response to the above consultation.

BALPA would draw attention however, to the position of the former nationalised industries now in the private sector, whose pension schemes reference the Pensions Increase (Review) Order for the purpose of indexation.

A number of the aforementioned schemes have reduced benefits in consultation with their trade unions to keep them open to future accrual. In some cases the concessions or additional member contributions made have been selected by members to retain indexation linked to RPI capped at 5%.

The Government's decision to change the basis of the Pensions Increase (Review) Order to CPI has, at a stroke, devalued this benefit not only in respect of accrual following the change to the Order but to benefits accrued prior to the change as well. In effect, members would now be better off had they chosen to forgo indexation linked to RPI and paid less in contributions or retained other benefits.

BALPA, therefore, requests the Government review the impact of the above change in respect of such schemes so as to preserve, at the very least, members' accrued benefits.

COUP – Committee of Unilever Pensioners

Written Response to

DWP Consultation

The impact of using CPI as the measure of price increases on private sector pension schemes

February 2011

About COUP

1. COUP is the independent voice of Unilever pensioners. It comprises of Unilever pensioners who choose to become members and lobbies to protect and enhance pensions paid by the Unilever UK Pension Fund. COUP was founded at the beginning of 1997 following widespread dissatisfaction among USF Pensioners with the fact that they had been largely excluded from the benefits of the huge actuarial surpluses which had been revealed by valuations of the fund carried out in 1990 (£753 million), 1993 (£356 million) and 1996 (£800 million).

2. Contact Details -
John Scholey

Information redacted

Comments on the Consultation

Until 2003 the Harmonised Consumer Prices Index (HCPI) – later abbreviated to Consumer Prices Index (CPI), was pretty much unknown in the UK. It was developed by EU statisticians as a tool to compare prices inflation in the EU. It was introduced into UK usage by Gordon Brown, then Chancellor of the Exchequer as an inflation target for use by the Bank of England. It was not (at least not expressed as) an index to measure cost of living (increases in prices) for wages, pensions or State benefits. The September Retail Prices Index (RPI) has been used for this purpose since 1988.

At the time HCPI was introduced to UK the main concern of COUP and other pensioner organisations was with allocating fair shares of pension fund surpluses to pensioners and re-instating the earnings link for State pensions. However, Gordon Brown was asked whether there was an intention to use HCPI for indexing State pensions and other benefits. He said it would not be used in this way and he confirmed that pensions' increases would be calculated by reference to RPI. Even at that time the difference between the two indices was apparent, the RPI was about 3% and HCPI 1.9%. It was clear what effect this might have had on pensions' increases if HCPI had been the accepted measure at that time.

The Labour Government did not change the indexation from RPI, but we believe that a switch to CPI has been on the minds of Treasury Officials since 2003 as they could see the massive savings to be made in State benefits, at the expense of pensioners. The election of the Coalition Government enabled the idea to become a policy reality, even though there was no mention of the change in either of the party manifestos.

In 2005 the Pensions Commission recommended restoring the link with average earnings to maintain the value of the State pension. This argument was eventually accepted by the Labour Government which legislated for the re-introduction of the earnings link for the basic State pension in section 5 of the Pensions Act 2007. The link was to be introduced by 2015 at the latest. The Coalition Government also accepted the argument, but went further by accelerating the introduction and establishing the "Triple Lock". This added to the Labour Government policy of a minimum of 2.5%. It has therefore been accepted by all political parties that the RPI has failed to maintain the value of the basic State pension.

In conclusion, it is clear that recent Governments have accepted that the RPI does not adequately protect the value of the basic State pension. The earnings link and subsequently the Triple Lock have been introduced to address this. However the Coalition Government has a completely different view on maintaining the value of the additional State pension and by extension, all public service pensions and those occupational pensions dependent on the Pensions (Increase) Act 1971, or permit changes to the indexation method applied to annual increases. The Government are prepared to use an index – CPI – which in 9 years out of the past 10 gives lower annual increases to pensions than the RPI, which is itself known to be inadequate.

Responses to Questions in Consultation Document

Q1: *The Government welcomes views on whether the impact of using CPI has been correctly summarised.*

Yes, except that it fails to consider AVCs which are accumulated separately from contributions to pension funds such as Unilever UK Pension Fund, but which are used, at retirement (when RPI was the specified method of indexation), to purchase extra pension from the main pension fund.

Q2: *The Government welcomes views on whether it is right to apply the employer consultation requirements in respect of changes scheme rules on indexation and revaluation.*

Yes

Q3: *The Government welcomes views on the draft Occupational Pension Schemes (Consultation by Employers – Amendment) Regulations 2011*

They seem to be satisfactory

Q4: *The Government welcomes views on whether there are any issues that should be considered in respect of career average arrangements.*

COUP are not competent to judge whether there are any additional issues.

Q5: *The Government welcomes views on whether there are any issues that should be considered in respect of GMPs.*

COUP does not accept that CPI meets the requirement to match "the general level of prices". In particular it excludes costs associated with owner occupied housing and it includes a formula which assumes people trade down to cheaper goods when prices rise. This latter assumption does not take cognoscente of trading down in price often carries the corresponding trading

down of quality. Repeated trading down of quality will have adverse consequences on the population.

Q6: The Government welcomes views on whether there is any justification for overriding the rules of private sector occupational pension schemes to impose CPI as the measure of increase in prices

There is no justification for the government overriding the rules of private sector occupational pension schemes to the detriment of existing pensioners for the benefit of shareholders. Past governments did nothing to prevent employers using existing rules to take contributions holidays without awarding corresponding increases to pensioners. In many cases, past contributions holidays have led to current pension fund actuarial deficits.

Q7: The Government welcomes views on whether there are other reasons why a scheme whose rules do contain a modification power would nonetheless be unable to, or find it difficult to, use CPI for indexation and revaluation.

There is no justification for the government making it easier for private sector employers to modify pension rules to the detriment of pensioners.

Q8: The Government welcomes views on whether it is right to rule out granting modification powers.

We agree

Q9: The Government welcomes views on whether there would be a way to restrict any modification power to those schemes which had previously adopted RPI solely in order to match the statutory minima.

This would be very difficult, and the legal profession would be the only ones to benefit.

Q10: The Government welcomes views on whether you agree the issue of CPI underpins should be addressed.

Yes – this would be fair.

Q11: The Government welcomes views on whether there are any other options to address the CPI underpin issue.

No

Q12: The Government welcomes views on whether the proposed amendments to remove references to RPI from primary legislation are satisfactory.

Section 84(5)(b) No

Section 40(1) COUP does not have an opinion.



**CWU SUBMISSION TO DWP CONSULTATION:
THE IMPACT OF USING CPI AS THE MEASURE OF PRICE INCREASES ON PRIVATE
SECTOR OCCUPATIONAL PENSION SCHEMES
DECEMBER 2010**

The Communication Workers Union is the biggest union for the communications industry in the UK with 215,000 members. We represent members in postal, administrative, financial and telephone companies including Royal Mail Group and BT, o2, Virgin Media, Orange and Santander. The majority of our members are in occupational pension schemes, many of whom, notably in BT Pension Scheme and parts of the Royal Mail Pension Plan, are likely to see their pension benefits eroded by the government's move to CPI as the statutory minimum for revaluation and indexation.

The CWU welcomes the opportunity to comment on the government's consultation regarding the impact of using CPI as the measure of price increases in private sector occupational pension schemes. While we are pleased to see that the government has accepted that private sector schemes should not have CPI imposed upon them as a measure of indexation and revaluation, we very much regret that this consultation does not provide the opportunity to comment formally on the shift from using RPI to CPI as the measure for the annual Revaluation Order, a move affecting all public sector pension schemes and all private sector defined-benefit pension schemes linked to it.

Using CPI as the measure of inflation for the government's annual Revaluation Order enables the government to make significant savings on public sector pensions. Differences in the make up and methodology of inflation measures mean that CPI lags behind RPI by an average annual rate of 0.83%.

Moving to CPI has the knock-on effect of vastly reducing the pension liabilities of large numbers of private sector pension schemes who up-rate pensions in line with the Revaluation Order. The move essentially results in a massive transfer of assets from employees to their employers. According to the recently revised DWP impact assessment this amounts to £83bn over the next 15 years.

This redistribution comes at a time when pensioner poverty and reduced pension savings remain widespread problems. Over 2 million pensioners are reported to live in poverty.

Ahead of the election the Prime Minister stated that:

"we also need to send a positive message that we want people to save and invest in this country - and one key long-term way we will do that is by reversing the effects of Gordon Brown's tax raid on pensions and get people in Britain saving again"¹

However, the government's move on RPI is exactly that: a raid on pensions. A transferal of £83bn of assets away from pensioners to the company's which sponsor their schemes. For 2 million members the annual rate of pension accrual will fall by between £2,250 and £2,500. This is a fall in remuneration; essentially a pay cut. Relevant pensions will be 12% lower by 2027 and 20% lower by 2020.

¹ Saga Magazine online (www.saga.co.uk), 24 February 2010.

The government has rightly recognised the damaging erosion to the basic state pension that occurred as a result of breaking the link with average earnings increases and is restoring the link (the basic state pension will increase by RPI in 2011 and the highest of CPI, RPI or average earnings for each year thereafter). Breaking the link between occupational pensions revaluation and RPI will have a similar effect on the future value of pensions as severing the link between the state pension and earnings did thirty years ago. It sets in place the foundations for future pension crises.

The CWU does not accept the government's argument that the CPI is more reflective of the inflation experienced by retired people and therefore a more appropriate measure for pension revaluations than RPI. The government argues that this is the case because the CPI excludes mortgage interest payments and assumes that most pensioners no longer have mortgages. However, pensioners face other rising household costs, such as council tax, which form part of the RPI but not the CPI. Moreover, pensioners tend to be in lower than average income brackets. Those on low incomes tend to face higher rates of inflation as they must spend a greater proportion of their income and are therefore more sensitive to price rises. Research by the Institute for Fiscal Studies² has previously found that older and poorer households face much higher average inflation than younger and richer ones. If the government's real aim is to reflect the level of inflation experienced by pensioners in its annual Revaluation Order it must take into consideration a broader range of factors than mortgage interest payments.

The Revaluation Order also applies to deferred pensions as well as pensions in payment. This means the future pensions of deferred pensioners will be gradually eroded over time and will fall in relation to their earnings. Whether or not current pensioners have mortgages and do or do not experience price rises in line with RPI has no bearing on the situation of current deferred scheme members, their experience of inflation, and the need for their accrued pensions to keep pace with their earnings.

Further, the government has argued that CPI is more appropriate as it is the Bank of England's preferred measure of inflation. This does not have clear implications for whether the CPI is an appropriate measure for the Revaluation Order. The CPI was introduced as a measure to make it easier to compare inflation with other EU member states. That it is a useful measure for the Bank of England does not imply it is a more appropriate measure to reflect the inflation experienced by pensioners.

Finally, while it is more than regrettable that the government should choose to revalue public sector pensions by CPI rather than RPI in a bid to cut costs, it does not and should not follow that the same change should occur in the private sector. While the government has refrained from requiring private sector companies to revalue in line with CPI, by changing the Revaluation Order, rather than creating a measure solely applicable to the public sector, the government is introducing sweeping changes which will not directly affect the public purse but will significantly undermine the anticipated benefits of vast numbers of ordinary pensioners.

It is worth noting that in deciding against the implementation of a statutory override of scheme rules for private sector occupational pensions, the government argues for the need to preserve and promote confidence in saving into private pensions. Unfortunately it will have exactly this effect; the move to CPI as the statutory minimum for the revaluation and indexation of pensions impacts on all private sector occupational pension schemes which do not explicitly state an alternative mechanism of revaluation and indexation. By eroding the value of pensions it will undermine confidence in private sector pension saving.

Q1. Whether the impact of using CPI has been correctly summarised.

The consultation document appears to correctly summarise the impact of using the CPI on private sector occupational pension schemes.

² Institute for Fiscal Studies, March 2009.

Q2. Whether it is right to apply employer consultation requirements in respect of changes to scheme rules on indexation.

It is very important that employer consultation requirements are applied in respect of changes to scheme indexation rules. The government's proposals will inevitably encourage some schemes to seek to reduce costs by changing their rules to reflect the changes in statutory indexation and revaluation. As things currently stand changes to revaluation and indexation rules are not 'listed changes' and are therefore not subject to employer consultation requirements.

Given the importance of such changes to pension scheme members' future pension accrual we believe employers should be obliged to consult pension scheme members on any such changes. However, we note the weak nature of such legislation, given that failure to comply with such requirements does not invalidate any rule change. We would like to see more meaningful consultation requirements introduced to better protect the interests of pension scheme members.

Q3. Views on the draft Occupational Pension Schemes (Consultation by Employers) Amendment Regulations 2011.

In line with our answer to question 3, while preferring to see more robust consultation requirements, we support the principle of the change to the legislation.

However, we note that the drafting of the legislation, in only requiring consultation where "that change would be less generous to members or members of a particular description", introduces an unnecessary degree of ambiguity. The CWU would like to see this condition removed from the final amendment.

The proposal is unclear for a number of reasons. Firstly, it is unclear as to who would be responsible for concluding whether or not the change will be less generous and therefore whether or not a consultation should apply. Instead, the purpose of consultation should be in part to establish whether or not the change will be of detriment to scheme members. Therefore, given that the consultation process may bring new evidence to bear on the impact of changes, consultation requirements should not be restricted to changes pre-judged to be less generous to members.

Secondly, it may not always be clear whether an amendment to the scheme will be more or less generous to members. Changes may appear of benefit in the short term, but run the risk of being detrimental longer term. For the avoidance of doubt such changes should be subject to consultation. Given the difficulty of identifying such changes it would be simpler and more effective to apply consultation requirements to all revaluation and indexation rule changes.

Q4. Whether there are any views on whether there are any issues that should be considered in respect of career average arrangements.

We are not aware of any issues specific to career average pension schemes.

Q5. Whether there are any issues that should be considered in respect of GMPs.

The Guaranteed Minimum Pension (GMP) is the minimum pension that occupational pension schemes are required to provide to those contracted out of the State Earnings-Related Pension Scheme (SERPS).

The CWU is not aware of any GMP-specific issues.

Q6. Whether there is any justification for overriding the rules of occupational pension schemes to impose CPI as the measure of increase in prices.

The CWU does not believe there is any justification in introducing a statutory override of occupational pension scheme rules. Such a move would allow the rules to be overridden without the consent of scheme trustees or members.

We support the arguments expressed in the consultation document that to do so would undermine confidence in pension saving, potentially create unnecessary complications and unfairly impact upon scheme members whose employers are willing to fund increases above the rate of the statutory minimum.

Pension schemes rules will generally have been reached in negotiation between members, trustees and employers. The government should not seek to intervene and undermine such agreements to the detriment of scheme members.

Q7. Whether there are other reasons why a scheme whose rules do not contain a modification power would nonetheless be unable to, or find it difficult to, use CPI for indexation and revaluation.

Schemes will have differing scope to amend rules to allow for a change in indexation or revaluation. The extent to which schemes are prevented from doing so must be seen as restraints consciously applied in setting up scheme rules and therefore not for the government to seek to weaken to the detriment of scheme members.

We do not believe it relevant to consider whether or not there are additional reasons why a scheme whose rules do not contain a modification power would be unable or find it difficult to use CPI for indexation or revaluation. If the scheme did not see fit to include such a modification power when the scheme rules were negotiated it is not now for the government to intervene.

Q8. Whether it is right to rule out granting modification powers.

The CWU fully supports the position that the granting of modification powers should be ruled out. To do so would mean overriding rules that in many cases will have been reached through negotiation and will form part of the basis on which members entered a scheme. Moreover, as the government recognises, to do so would potentially mean unfairly upsetting the balance of power within a scheme if the sponsoring employer were to be given the right to change the rules in its favour. Pension schemes constitute an agreement reached between employee and employer regarding remuneration with the necessary rules in place to protect these benefits. There is not a sufficient justification to allow the government to intervene on behalf employers at the expense of their employees future benefit payments.

Q9. Whether there would be a way to restrict any modification power to those schemes which had previously adopted RPI solely in order to match the statutory minima.

Notwithstanding the fact that the CWU opposes the adoption of CPI as the statutory minimum for revaluation and indexation, we do not believe it is possible to accurately distinguish between schemes which adopted RPI for revaluation and indexation solely to match the statutory minimum and those which adopted it for other reasons. In the absence of a clear mechanism through which such a distinction could be made, the introduction of a modification power risks going too far and overriding scheme rules in the case of schemes adopting RPI for reasons other than reflecting the statutory minimum.

Q10. Whether you agree the issue of CPI underpins should be addressed.

Schemes which will continue to increase pensions using the RPI will not be obliged to use the CPI. However, in the absence of any additional action, if in future RPI is ever lower than CPI, these schemes could be required to increase in line with CPI as the statutory minimum.

The government proposes to take action so that any scheme choosing to continue to use the RPI and would not have to use CPI under such circumstances.

The CWU accepts that schemes continuing to revalue and index pensions in line with the RPI should not be required to use CPI in the event that it is higher than RPI. We believe that RPI provides a fairer measure of inflation than CPI and that schemes choosing to use the RPI should not be penalised on the rare occasions that the CPI rises above the RPI.

Q11. Whether there are any other options to address the CPI underpin issue.

The CWU supports the proposed mechanism for dealing with CPI underpins.

Q12. Whether the proposed amendments to remove reference to RPI from primary legislation are satisfactory.

The government is proposing to make additional changes to primary legislation with respect to certain circumstances these apply to revaluations of pensions – including those related to the GMP and pension credit benefits - which specify revaluation in line with RPI.

We do not support these additional amendments. These changes go beyond the implication of using CPI for revaluation and indexation of private sector occupational pensions. They should stand alone and need independent justification which has not been given. It does not follow from the introduction of CPI for Revaluation Orders that all references to the RPI in legislation should be removed and replaced with CPI.

We do not see a justification for introducing further amendments that will erode future pension benefits. Consequently we do not support the proposed amendments.

For further information on the view of the CWU contact:

Billy Hayes
General Secretary
Communication Workers Union
150 The Broadway
London
SW19 1RX

Information redacted

1 March 2010

Response to DWP Consultation: The impact of using CPI as the measure of price increases on private sector occupational pension schemes

Prudential UK

Thank you for the opportunity to comment on the change from RPI to CPI as the preferred method of pension increase.

Established in 1848, Prudential is one of the leading providers of retirement saving & income products with over 7 million customers in the UK. Prudential UK currently manages 5,400 workplace schemes involving 640,000 members with funds under management of almost £9 billion. In 2009 we paid £2.4 billion in retirement income to around 1.4 million people. We are therefore particularly well-placed to understand and comment on issues affecting pension and retirement income provision in the UK.

We would like to add our support to the consultation response submitted by the ABI which we believe raises the concerns that will be felt throughout the pensions and annuity industries.

We feel that it is particularly important that two particular issues are resolved as soon as is practicable:

- i) As stated in the ABI response the potential for a CPI underpin to be required should be avoided at all costs. It is widely anticipated that RPI will exceed CPI the majority of the time and therefore that members in schemes which apply RPI are likely to be better off than those in schemes that apply CPI. At present, under the legislation as drafted, only those schemes which had a clear requirement to apply RPI as at 01 January 2011 will be exempted from the CPI underpin. This should be extended so that schemes which wish to continue to apply RPI (to the benefit of the member) would not need to apply the underpin.

It is also important that the underpin exemption is expanded to cover GMP indexation so that those schemes that do specify Post 88 GMP increases in line with RPI can continue to do so without the need for a CPI underpin.

Currently the legislation also implies that revaluation in deferment can only be applied on an RPI basis if, prior to the change, the whole pension, including any GMP benefits, were revalued in line with RPI. This means that, without any further amendments to the Pensions Bill, there will be instances where the CPI underpin will need to be applied to revaluation in deferment.

- ii) A primary and significant concern is that there are currently no assets available to meet the liabilities of providing CPI increases. Therefore annuity providers are likely to find it difficult to provide such annuities. Further, if fewer annuity providers are able to issue retirement quotations for the indexation basis specified it will be more difficult for schemes to secure the necessary benefits and to meet their duties under FSA and DWP disclosure rules. Providers may also be forced to back CPI escalation using RPI (or other) based assets which is likely to lead to increased costs.

This issue not only affects private pension provision but also public sector schemes with insurance-based Additional Voluntary Contribution (AVC) arrangements.

Although the consultation focuses on occupational pensions (scheme rules) as opposed to the contractual arrangement, the impact on occupational pension schemes cannot ignore annuities. Many benefits are secured using this method either directly (to manage liabilities), via buy-outs or from linked benefits (such as AVC's). Given the above Insurance companies may be unable (or unwilling) to provide CPI indexation for new business making it difficult for schemes to secure benefits that match their rules.

This issue applies to existing business as much as it does to new business, specifically where company pension schemes, who already have secured arrangements, wish to apply a CPI increase to those arrangements.



1 March 2011 – UNISON Response to DWP Consultation – The impact of using CPI as the measure of price increases on private sector occupational pension schemes

UNISON represents well in excess of a million people working across our public services throughout the UK in local government, the NHS, education, social care, housing, policing, transport, utilities, community and environmental services. They carry out many different roles in a diverse range of settings, within policy frameworks determined by their particular employer, relevant local and regional bodies, and central Government.

A significant number of our members courtesy of privatisation and TUPE transfers are or have accrued pension rights in private sector defined benefit pension schemes and indeed there's a risk with the current Coalition Government many more of our members are effectively going to be transferred to the private sector and hence the relevance of your consultation to a significant element of our membership.

Of course the Government wishes to increase public service pensions and specific key social security benefits by increases in the Consumer Prices Index (CPI) from April 2011 which UNISON very much opposes.

The Inappropriateness of CPI for pension indexation purposes, including revaluation rates for Career Average Revalued Earnings (CARE) pension schemes

- The Government claims that CPI is “*a more appropriate measure of pension recipients inflation experiences and is also consistent with the measure of inflation used by the Bank of England*”.
- The reality however is that CPI is not fit for purpose for indexing pension benefits and indeed the statistical experts agree.
- **The Royal Statistical Society**, which represents the UK's leading statisticians, has said that CPI fails to reflect the spending patterns of pensioners and the rising costs they face.
- The Institute for Fiscal Studies has shown that most pensioner households are not shielded from many of the costs excluded from the CPI.
- The UK Statistics Authority, which oversees official data, has also said that they do not believe the CPI should become the primary measure of price inflation until housing costs are included.
- CPI excludes many of the costs that are directly relevant to those faced by pension recipients, notably mortgage interest payments, council tax, TV licence fees and vehicle excise duty.
- UNISON does not only oppose a switch to CPI indexation for pensions in payment and deferment, but also opposes CPI as a revaluation rate for

Career Average Revalued Earnings (CARE) pension schemes as how can an Index acknowledged by the Government as being a “*more appropriate measure of pension recipients inflation experiences*” be relevant for active scheme members? It is UNISON's view that active members of CARE schemes in particular are being hard done by where the Scheme Rules allow for CPI indexation and that a more appropriate and fairer revaluation rate would be the better of increases in the Retail Prices Index (RPI) or National Average Earnings (NAE).

The Inherent unfairness in switching to CPI

- It is widely accepted that indexing pensions by CPI will result in smaller pension increases for pensioners and scheme members as well as generating significant savings for pension schemes and sponsors.
- It is apparent that historically CPI is on average 0.7% per annum less than RPI.
- The Office for Budget Responsibility have predicted that pension values will in effect be 8.5% less by 2017 if increased by CPI.
- Lord Hutton in his Interim Report of 7 October stated that public service pension benefit values will be cut by 15% in adopting full CPI indexation.
- British Telecom in largely being able to switch to CPI for indexing defined benefit pensions has been able to reduce its pension fund deficit by a massive £2.9 billion!
- It is particularly grossly unfair for retired members to find that their pensions will increase by a lower Index than they may have envisaged when actively accruing pension benefits or even led to believe from scheme literature, where Scheme Rules allow for pensioner benefits to be increased by CPI.

Let's not overlook the fact that a move from RPI indexation to CPI indexation is simply a raid on members retirement expectations!

UNISON RESPONSES TO SPECIFIC CONSULTATION QUESTIONS THAT YOU POSE:

Is it right to apply the employer consultation requirements in respect of changes to scheme rules on indexation and revaluation?

Most definitely and this should cover the specific acts of increases to pensions in payment, increases to pensions in deferment and the revaluation rate applicable to each year's accrual in a CARE scheme.

These changes to the consultation requirements should be enacted with urgency as it's evident that many private sector pension schemes are currently considering this issue and looking to make changes where Scheme Rules permit.

Are there any issues that should be considered in respect of career average arrangements?

UNISON in our Final Call for Evidence response to the Independent Public Service Pensions Commission asked an actuarial firm to carry out work to illustrate the potential impact on members benefits in a career average scheme if earnings are revalued in line with CPI in the future based on an assumption that CPI is on average 0.7% per annum less than RPI.

Below are the results:

- A member 10 years from retirement could expect to see a 7% decrease in their pension at retirement in respect of future increases on past service benefits and a 4% decrease in respect of future service benefits, i.e. an overall decrease in pension at retirement of 4-7% (depending on how much past service they have)
- A member 20 years from retirement could expect to see a 13% decrease in their pension at retirement in respect of past service and a 7% decrease in respect of future service, i.e. an overall decrease in pension at retirement of 7-13% (depending on how much past service they have)
- A member 30 years from retirement could expect to see a 19% decrease in their pension at retirement in respect of past service and a 10% decrease in respect of future service, i.e. an overall decrease in pension at retirement of 10-19% (depending on how much past service they have)

Younger members could be looking at an overall decrease in the value of their benefits of 20%-25% up to retirement age then significantly lower pension increases in retirement if also based on CPI. This adds up to serious doubts about the continued ability of career average schemes that adopt CPI being able to continue to provide adequate benefits.

Is there any justification for overriding the rules of private sector occupational pension schemes to impose CPI as the measure of increase in price?

UNISON believes there to be no such justification and would question the legality of any move that reduces the value of accrued rights. Clearly as outlined above UNISON does not believe CPI to properly reflect the typical spending patterns of pensioners, deferred members or indeed active members and would hence view any overriding power as simply unfair and morally indefensible.

Are there other reasons why a scheme whose rules do contain a modification power would nonetheless be unable to, or find it difficult to, use CPI for indexation and revaluation?

Section 67 of the 1995 Pensions Act is an obvious example where legislation restricts amendments to rules being made which directly impact accrued pension benefits. We would view a move from RPI to CPI indexation as a potential breach of Section 67 protection if it was to be applied to past service.

Also many Amendment or Modification powers within Trust Deed and Rules require Trustee consent for rule changes to be implemented and we would question the rationale for Trustee agreement to changes where the change is a clear detriment to the pension rights of members and in the case of switching to CPI, where the statistical experts disagree with such a move.

Is it right to rule out granting modification powers?

Yes and UNISON welcomes the proposals in the consultation paper to not introduce modification powers.

Are the proposed amendments to remove references to RPI from primary legislation satisfactory?

The proposed changes to primary legislation go beyond the principle purpose of the consultation document, which is to consider the impact of using CPI as the measure of price increases for private sector occupational pension schemes. As we have explained in our response UNISON does not accept a move from RPI to CPI.

In Conclusion

UNISON welcomes the fact that the Government is of a mind to not introduce overriding requirements for schemes to switch to full CPI indexation or revaluation where this is not supported by the Trust Deed and Rules.

UNISON very much agrees with the statistical experts that CPI is not an appropriate index for indexing and revaluing pension benefits and the Government really needs to re-think its pension policy in this respect, for both private and public sector pension schemes.

To not do so is simply swapping short-term gain for long-term pension misery and of course the State will in the end have to subsidise the costs of inadequate pension saving through the payment of means tested benefits.

Submission drafted by:

Glyn Jenkins, Head of Pensions, UNISON,

Alan Fox, Pensions Officer, UNISON,

Information redacted



**The impact of using CPI as the measure of price increases on
private sector occupational pension schemes**

This response is submitted by Unite, the UK's largest trade union with almost 1.5 million members across the private and public sectors. The union's members work in a range of industries including manufacturing, financial services, print, media, construction, transport and local government, education, health and not for profit sectors.

Pensions are a key element of most of our member's terms and conditions and one on which they place a high value.

Executive Summary

- Unite is strongly opposed to the application of CPI for the purpose of pension increases and believes RPI linkage should be maintained
- CPI has been selected not because it is a better index but because it is a lower index. We believe that rather than being more appropriate for measuring pensioners' cost of living its methodology means it is actually less appropriate.
- Unite welcomes the extension of the requirement for employers to consult on pension changes to cover changes in the basis of pension increases, as these are a key factor determining the value of the benefit

- The inter-action of CPI with caps on pension increases will serve to compound the damaging effects in the company defined benefit scheme context
- Unite strongly supports the proposals not to impose CPI through overriding legislation or to allow modification orders as would allow schemes to by-pass the established restrictions on reducing accrued benefits.
- Any reduction in accrued rights would offend against the key principle of changes not reducing benefits retrospectively, which is fundamental to protecting members' rights to benefit and maintaining member confidence in schemes

The Unite case in detail

1. Unite has opposed the Government decision to use CPI as the basis for inflation increases in respect of State Pensions and the public service pension schemes, and it also opposes the use of CPI to define the minimum basis of required increases in private sector occupational defined benefit schemes.
2. The Government's argument that CPI is a better index to reflect the inflation experienced by pensioners does not stand up to any serious examination. It has been based primarily on the influence of housing costs on the RPI and the fact that housing costs for pensioners are much lower than for households in general. But housing costs are not the main reason why CPI inflation is less than RPI inflation. Furthermore the housing costs argument cannot be applied in the case of revaluation of deferred pensions, as increases to these benefits relate by definition to members of working age.
3. It would have been possible for the government to use a modified RPI to take account of the housing point. However, on the same principle it would have been harder to deny the case for making other adjustments to reflect pensioner spending patterns. More creditable attempts to measure inflation costs for pensioners have been made by Age UK's Silver RPI and by the Alliance Research Trust. Their indices indicate in recent times that

pensioners have been experiencing higher inflation than general RPI rather than the lower inflation measured by CPI.

4. The main reason why RPI is lower than CPI is because of the method of calculation, the former being an arithmetic mean and the latter a geometric mean. The non-mathematical issue lying behind this is that the geometric mean takes account of changes in spending patterns induced by relative price changes i.e it look at the increase in prices of what people buy when confronted with price changes rather than at the impact on what they bought previously.

5. We would suggest that pensioners are far less inclined to modify their spending patterns than consumers in general reflecting the fact that a higher proportion of their budgets are absorbed by necessities and they are more set in their ways.

6. If we consider a pensioner household and assume they spend half of their budget on food and the other half on fuel. If the price of food were to fall by 10% and the price of fuel to rise by 20% then the RPI arithmetic mean method of inflation calculation would suggest that the level of inflation they experience was 5%, whereas the CPI geometric mean method would suggest that it was only 3.9%.

7. The latter result is based on the notion that the pensioner turns down the heating and buys some extra food to compensate. The issue is then is this a realistic response and, even if it is, are they better off or worse off on account of their altered consumption? We would argue that pensioners will be less likely to switch and will feel worse off if they do, and that therefore the arithmetic mean and the RPI are more appropriate ways to measure inflation.

8. Which inflation measure is most appropriate is a legitimate topic of debate but it is doubtful whether there is a right answer and it would be difficult to construct a perfect index applicable to pensions in payment, deferred pension and, in CARE schemes, to revaluation rates. The Government has moved to CPI quite simply because it promised to be lower than RPI, and has completely failed to justify its superficial argument that it is a more appropriate index.

9. The level of pension increases provided by a scheme is a key aspect of the value of the benefits it provides. RPI has long been accepted as the measure used to define and regulate increases in pensions and has been the primary measure of inflation going well beyond the pension arena. This is reflected in the widespread references in scheme literature and communications which certainly create expectations, and in some cases entitlements, which are in advance of scheme rules.

10. The Government has chosen to exercise a discretion, which it believed the legislation allowed, to switch from RPI to CPI. From a member's perspective it has taken advantage of the 'small print' to cut the value of pension benefits and disregarded member expectations. It has taken a calculated risk that this change will not generally be open to legal challenge

Question 1 – Has the impact of using CPI been correctly summarised?

11. The Consultation Document does appear to accurately summarise the complex and diverse inter-relationship in different private sector schemes between scheme rules and the legislation in respect of increases.

12. What it perhaps fails to bring out is that the legislation on increases was only intended to provide for a minimum basis of increase and that good practice would always be that pensions should retain their full value before and during retirement.

13. In interpreting the impact of CPI in relation to private sector schemes account has to be given for the fact that increases are capped, which serves to compound the effect of the overall restriction on pension increases.

Question 2 – Should employers be obliged to consult on changes in indexation rules?

14. Unite would strongly support the extension of listed changes in respect of the employer consultation requirements to cover changes in scheme

rules on indexation and revaluation. This becomes more important the lower the minimum statutorily required pension increases are.

15. Given the potential loss to members of benefits resulting from a change, its present exclusion is an anomaly. It has only been mitigated up to now by changes often being included in a wider consultation exercise embodying changes which are currently listed. However, in other cases, significant changes in indexation have been slipped in without members realising e.g. by trustees disclosing the change by putting an inconspicuous sentence in their annual report.

16. In bringing forward amendments to these regulations we would also invite the Government to clarify as being listed changes inflation-linked (and other) limitations on the amount of pay rises which will count as being pensionable pay.

Question 3 – Do the draft regulations provide adequately for consultation on changes?

17. The regulations as drafted appear to provide adequately for this consultation. However, in respect of the requirement being limited to changes which are less generous, other changes should be subject to actuarial certification in order to be accepted as being exempt.

Question 4 - Issues in respect of CARE pensions?

18. We do not see any particular issues in respect of how changes in the legislation on increases will impact on CARE schemes as it has only limited application to the revaluation rate which is critical to the value of schemes

19. Unite does have strong concerns about the trend toward the application of CPI, and especially capped CPI, to the revaluation rates used by CARE schemes. These can mean that from the inception of membership benefits accrued may be at risk of substantial depreciation even whilst the member, as an employee, is still building up new benefits.

Question 5 – Issues in respect of GMP's?

20. We do not see any particular issues in respect of Guaranteed Minimum Pension rights in respect of legislation though we object to the knock-on implication in this areas of CPI being applied in respect of state pensions

Question 6 – Should legislation over-ride pension scheme rules and impose CPI increases?

21. Unite welcomes the Government's decision not to propose an over-ride of scheme rules to impose or allow CPI increases to be paid in respect of past or future service benefits where current rules and legislation would have prevented this.

22. It is often suggested by advocates of an over-ride that schemes have only provided pension increases because they have been forced to do so. While there is some truth in this in respect of revaluation of deferred pension this is not the case generally for indexation of pensions in payment.

23. Prior to 1997, when legislation first required increases, around 70% of pension schemes already provided for guaranteed RPI-linked increases (and a further large block of schemes paid discretionary increases as a matter of course). The legislation was aimed at a minority of schemes who were being criticised for not paying increases while at the same time their sponsoring employers were taking contribution holidays.

24. The practice of guaranteeing increases had emerged voluntarily and by negotiation as being good practice. When legislation did consolidate this it was quite common for increase provisions to be agreed which were in advance of the legislative requirement.

25. It would be totally unacceptable now for increases in respect of past service benefits to be taken away by over-riding legislation. This would breach one of the key principles which underpins confidence in pension schemes which is that any changes should not be retrospective.

26. The precedents for over-riding legislation impacting on pension benefits have all been to improve benefits and to counter discrimination. The Government has rightly rejected calls for it to set a precedent for over-riding legislation to make benefits worse.

27. It is inconceivable that the government would legislate to interfere in commercial contracts in general or in annuity contracts in particular to substitute inferior terms. So why is it even considered that they should interfere in occupational pension schemes in such a manner.

Question 7 – Obstacles to schemes modifying their benefits to allow for CPI?

28. The rules of most schemes contain specific provisions which prevent amendments or modifications as would reduce members' accrued rights. These provisions usually preceded but were reinforced by legislation, in particular by Section 67 of the Pension Act 1995

29. There are very few schemes whose rules would prevent a change in rules relating to indexation or revaluation in respect of scheme benefits earned in the future, whether directly or by a requirement for difficult processes to be undertaken to secure agreement (e.g by member consent).

Question 8 – Should modification powers be given to allow schemes to bypass protections in rules and legislation and change to CPI?

30. Unite supports the Government's decision not to grant new modification powers to schemes. This would be an indirect alternative to the direct use of over-riding legislation and it is unacceptable for all of the same reasons

31. This would involve the Government interfering directly to disturb the balance of power within schemes and the protection for members' benefits. The protections against rule changes which affect past benefits are fundamental to members no longer working for the Company who have completely powerless in the face of an attack on their benefits.

32. It is not clear why inflation protection, as a key aspect of benefit value, should be subject to different criteria and lesser protection than other benefits. As has been noted, past legislation is not the main reason why schemes include provisions for pension increases

Question 9 – A selective modification power ?

33. In many cases it would not be possible to determine truly what scheme rules may have said in the absence of legislation. Provision in most cases preceded legislation and in its absence would no doubt have continued to develop or otherwise alternative improvements may have been negotiated.

34. It would neither be practicable or fair to try and implement a modification power which took account of the particular history of different schemes.

Question 10 – Should schemes with RPI-based increases have to underpin these with CPI?

35. As a general principle it would seem fair to legislate so that schemes committed to RPI increases should not, due to legislation, be required to pay increases that were the higher of CPI or RPI. It would seem unfair and administratively burdensome to require this dual basis of increases to be applied.

36. Failure to address this issue might encourage more schemes to switch to a CPI basis

Question 11 – Is the proposed approach to deal with this appropriate?

37. The legislative device proposed to resolve this would seem to be a sensible way of achieving the objective.

Question 12 – Other changes relating to CPI?

38. We have no comments to make on these miscellaneous amendments

Submitted on behalf of Unite

Len McCluskey

General Secretary

Please direct enquiries to Bryan Freake, Unite Pensions Officer

Unite - 128 Theobalds Road , London, WC1X 8TN

Information redacted

21 February 2010

Submission to Adelphi.sft@dwp.gsi.gov.uk

Information redacted, DWP, 7th Floor Caxton House, Tothill Street, London,
SW1H 9NA

Closing Date : 2 March 2011



*Union of Shop, Distributive
and Allied Workers*



*Union of Shop, Distributive
and Allied Workers*

**DWP Consultation on the Impact of Using CPI
as the Measure of Price Increases on Private Sector
Occupational Pension Schemes**

February 2011

**Response of the Union of Shop, Distributive &
Allied Workers (Usdaw)**

**Response of the Union of Shop, Distributive &
Allied Workers (Usdaw)**

Introduction

Usdaw (the Union of Shop, Distributive and Allied Workers) is the UK's fourth largest trade union, with over 398,000 members.

Most Usdaw members work in the retail sector, but the Union also has many members in transport, distribution, food manufacturing, chemicals and other trades.

Usdaw welcomes the opportunity to respond to the DWP's consultation on the impact of using CPI as the measure of price increases on private sector occupational pension schemes.

Usdaw is opposed to the Government's proposal to use CPI rather than RPI as the measure of price inflation for the purpose of statutory minimum revaluation of and indexation of benefits accrued in occupational pension schemes.

The DWP's own impact assessment estimates that a switch to CPI for private sector pension schemes will reduce the value of members' pensions by £76.6 billion over 15 years.

Research undertaken by the Pensions Policy Institute and published in a report entitled *How could CPI indexation affect pension income?* estimates that the impact of switching to CPI on a worker who leaves an occupational scheme at age 40 would be to reduce his pension at age 65 by 20%.

The PPI also report that the cumulative effect of switching from RPI to CPI for a pensioner drawing basic State Pension, State Second Pension and a private sector occupational pension would be a reduction to their retirement income of 2% by the time they reach age 75 and 4% by the time they are 85.

Aside from the significant reduction to members' retirement incomes, we have serious concerns about the legality of any proposal which would allow private sector occupational pension schemes to modify or override rules which stipulate the use of RPI. It is our view that this would contravene the 1995 Pensions Act, which prohibits any change to a pension scheme which reduces or devalues an accrued entitlement.

Our response to each of the questions asked in the consultation document is set out below.

1. Has the impact of using CPI been correctly summarised?

Yes, the consultation does correctly summarise the impact of switching from RPI to CPI on private sector schemes. However, Usdaw shares the view of the TUC that the Government's justification for the policy, which is that CPI is a more appropriate measure of inflation for pensioner living expenses, does not extend to using CPI for the revaluation of deferred pensions (which track rises in inflation whilst the members are still of working age).

2. Is it right to apply the employer consultation requirements in respect of changes to scheme rules on indexation and revaluation?

Usdaw is in favour of the inclusion of changes to scheme rules on indexation and revaluation among the 'listed changes' which trigger the requirement for an employer to consult with affected scheme members. In our view, this is long overdue. However, we have argued in the past and are still of the opinion that the 'listed changes' ought to be replaced with a blanket requirement for employers to consult on any rule change which has a material impact on the value of members' benefits. This would provide extra protection for scheme members and also remove the need for the Government to have to keep revisiting the list of changes and adding to it whenever changes in the pensions landscape require it.

3. What are our views on the draft Occupational Pension Schemes (Consultation by Employers) Amendment Regulations 2011?

As above, we welcome the addition to the list of changes in the Regulations. However, we share the concerns of the TUC about the inclusion of the wording "...but only where that change would be less generous to members or members of a particular description", which adds unnecessary ambiguity and as such ought to be left out entirely.

4. Are there any issues that should be considered in respect of career average arrangements?

The Government has justified the proposed switch from using RPI to using CPI on the grounds that CPI is the more appropriate measure of the inflation experienced by pensioners. Whilst this argument might apply to using CPI to increase pensions in payment, it cannot be extended to apply to the revaluation of deferred pensions or to the revaluation of accruals or earnings for active members of a career average scheme, which are all applied before the members have reached retirement age.

Usdaw has a large number of members contributing to career average schemes at employers including Tesco, the Co-op, Sainsbury's, Morrison's and Unilever. We have a special interest in anything that would impact on the benefits payable from these schemes.

We have a real concern that allowing schemes to switch from CPI to RPI will significantly reduce the amount of retirement income that our members expect to get from their occupational pensions, particularly in light of the findings of the PPI mentioned in the introduction to our response.

5. Are there any issues that should be considered in respect of GMPs?

Usdaw is not aware of any issues that ought to be considered in respect of GMPs.

6. Is there any justification for overriding the rules of private sector occupational pension schemes to impose CPI as the measure of increase in price?

Usdaw is strongly of the opinion that there is no justification for overriding scheme rules to impose the use of CPI. Furthermore, we would question the legality of imposing a rule change that is likely to result in the reduction of accrued rights which are protected by Section 67 of the 1995 Pensions Act.

7. Are there other reasons why a scheme whose rules do contain a modification power would nonetheless be unable to, or find it difficult to, use CPI for indexation and revaluation?

Again, even those schemes whose rules do contain a modification power will find it difficult to effect a rule change which is likely to result in the devaluation of accrued rights which are protected by section 67 of the 1995 Pensions Act. Any move to permit a 'one off' breach of Section 67 would be contrary to the spirit of protecting members' rights in which that piece of legislation was enacted.

8. Is it right to rule out granting modification powers?

Usdaw agrees with the Government's proposal not to grant modification powers to allow schemes to use CPI instead of RPI. As discussed in (6) and (7) above, we do not believe that such modification powers would be legally enforceable if they are likely to result in members' accrued rights being devalued.

9. Is there any way to restrict any modification power to those schemes which had previously adopted RPI solely in order to match the statutory minima?

Usdaw is opposed to any scheme being granted modification powers to allow the use of CPI instead of RPI for the reasons given in (6), (7) and (8) above. We do not believe it would be possible for the modification power to be restricted only to those schemes which adopted RPI solely in order to match the statutory minima. We do not believe it would be possible for an employer to assert that this was the only reason that RPI was adopted in their rules. In most cases, the scheme rules would have been written years ago with the people responsible having moved on since. Statements from the scheme's current decision makers accounting for the reasons why their predecessors adopted RPI in the scheme rules cannot be relied upon to be impartial.

10. Should the issue of CPI underpins be addressed?

Usdaw agrees that it is fair and reasonable for schemes that choose to retain RPI not to have to use CPI in those years when CPI is higher than RPI and we agree the Government's proposed course of action as described in the consultation document.

11. Are there any other options to address the CPI underpin issue?

Usdaw has no suggestions for other options to address the CPI underpin issue and we are satisfied with the Government's proposed course of action.

12. Are the proposed amendments to remove references to RPI from primary legislation satisfactory?

Usdaw does not accept the change to CPI in general and we share the view of the TUC that any proposed change to a reference to RPI in legislation ought to be considered on its own merits. No justification for the proposed changes to the primary legislation is offered in the consultation document and therefore we are not in a position to respond.

John Hannett

General Secretary

Usdaw

188 Wilmslow Road

Manchester

M14 6LJ

For further information, please contact:

Nick Walker, Pensions Officer, Usdaw

Information redacted



The impact of using CPI as the measure of price increases on private sector occupational pension schemes

Responses on behalf of Whitbread Group PLC

Lesley Williams, Group Pension Director

The following are Whitbread's responses to the questions raised in the consultation document.

Q1 The government welcomes views on whether the impact of using CPI has been correctly summarised

Whitbread's pension scheme falls into one of the categories identified because it specifies, in its rules, RPI for both deferred and pensioner increases. We are concerned about the cost impact of the requirement to use CPI in years where this is higher than the definition of increases linked to RPI under our scheme rules and agree with this summary of the impact.

Q2 The Government welcomes views on whether it is right to apply the employer consultation requirements in respect of changes to scheme rules on indexation and revaluation

Whitbread does not agree that changes to the current consultation regime are necessary. As a large and responsible employer Whitbread will consult on all matters of contract with our employees, but a change to benefits that have been established solely because of a legislative requirement and are changing because of a change to that requirement is not a matter for consultation between employer and employee and will only serve to confuse relationships.

Q3 The Government welcomes views on the draft Occupational Pensions Schemes Regulations 2011

See the answers to Q2

Q4 The Government welcomes views on whether there are any issues that should be considered in respect of career average arrangements

Whitbread has no experience of such arrangements.

Q5 The Government welcomes views on whether there are any issues that should be considered in respect of GMPs

There are none

Q6 The Government welcomes views on whether there is any justification for overriding the rules of private sector occupational pension schemes to impose CPI as the measure of increase in prices

Whitbread agrees that the rules of scheme should not be overridden to impose CPI. Scheme sponsors and trustees should be free to choose to pay higher benefits than those set out in statute.

Q7 The Government welcomes views on whether there are other reasons why a scheme whose rules do contain a modification power would nonetheless be unable to, or find it difficult to, use CPI for indexation of revaluation

There are none known to Whitbread.

Q8 The Government welcomes views on whether it is right to rule out granting modification powers

Whitbread urges the Government to grant a modification power to enable sponsors and trustees to follow its lead. The Government has introduced a change to its own method of indexing pensions. Whether the change has been introduced to reduce the cost of pensions provided by the Government or to better reflect the rise in the cost of living for those over retirement age it is apparent that the Government's view is that CPI is now a more appropriate measure for indexation and revaluation. In the past the Government required private sector occupational pension schemes to follow

its lead in using RPI as the most appropriate measure for increasing pensions. The consultation correctly identifies that sponsors of occupational pension schemes may have had differing reasons for introducing RPI in the past (although there is no doubt that they were, at least, guided by legislation) but those sponsors, like the Government, are operating in a different environment today. It is likely that not all sponsors or trustees will wish to make a change from RPI to CPI, but without a modification power to address the impact of section 67, many sponsors and trustees will be unable to use the new measure of indexation endorsed by the Government.

Q9 The Government welcomes views on whether there would be a way to restrict any modification power to those schemes which had previously adopted RPI solely in order to match the statutory minima.

If the Government is minded to adopt such an approach, it should be possible to identify schemes that were simply complying with regulations because they will have changed scheme rules in response to the legislation introducing LPI increases. However, we would argue that there is no need to restrict a modification power. Sponsors and trustees who do not wish to take advantage of the modification orders either because they are concerned that rules were not drafted with the intention that they fall into line with regulations or because they simply have no desire to make changes to revaluation or indexation will not need to do so. However, sponsors and trustees who, like the Government, wish to adopt a more appropriate revaluation and indexation measure would be able to do so.

Q10 The Government welcomes views on whether you agree the issue of CPI underpins should be addressed

Whitbread's pension scheme rules require revaluation and indexation using RPI as a measure and we urge Government to ensure that our costs are not increased by having to provide the higher of the RPI or CPI.

Q11 the Government welcomes views on whether there are any other options to address the CPI underpin issue

Whitbread agrees that this would address the CPI underpin issue for increases to pensions in payment, but would remind Government that the underpin issue also needs to be addressed for increases to pensions in deferment.



**DWP Consultation:
The Impact of Using CPI as the Measure of Price Increases on Private Sector
Occupational Pension Schemes**

- GMB Response -

March 2011

GMB

**22-24 Worple Road
London
SW19 4DD**

**General Secretary: Paul Kenny
Information redacted**

For further information
Please contact

**Naomi Cooke
National Pensions Officer**

**GMB RESPONSE TO DWP CONSULTATION ON THE IMPACT OF USING CPI AS
THE MEASURE OF PRICE INCREASES ON PRIVATE SECTOR OCCUPATIONAL
PENSION SCHEMES**

GMB is one of the UK's largest trade unions representing more than 600,000 employees and members of pension schemes across the public and private sectors. Our 300,000 private sector employees participate in thousands of different occupational pension schemes from the largest defined benefit schemes to the smallest stakeholder arrangements.

The diminution of pension saving resulting from the policy announced on the 8th July is of grave concern to GMB's members. For many, participation in pension saving becomes of questionable utility if the value of benefits accrued can retrospectively be reduced. Government may have satisfied themselves that this doesn't breach the legal definition of accrued rights but members themselves understandably take a very different view. We certainly concur with the view held by many that there should be no statutory override to alter existing indexation provisions and no further retrospective changes. Members will lose all confidence in their retirement savings if more elements that have been negotiated by unions and employers are arbitrarily overridden by government, this is particularly likely when the change is deemed to have a presentational rather than substantive purpose.

GMB believes that if DWP had a genuine intention to reflect pensioners' cost of living in the indexation of pensions then it would develop a specific pensioners' index, not decide to reduce the value of pensions by choosing a lower index based on a questionable assessment of housing costs. GMB would support a move to examine the specific cost of living changes experienced by those in retirement but would warn that existing assessments indicate that due to the spending patterns and additional required expenditure that later life brings, pensioners' cost of living often exceed any standard index used for the wider population. Some organisations such as the Alliance Research Trust and Age UK have assessed this issue and have concluded overwhelmingly that pensioners' inflation outstrips the conventional RPI measure let alone the lower CPI measure.

Of particular concern for GMB is the inconsistency of DWP's policy regarding indexation. If the premise held by the department and Treasury is that CPI is the more appropriate measure of indexation for pensions in payment, it is axiomatic that a different indexation should be used for pension savers of working age who, on DWP's assumptions must have higher housing costs and different spending behaviours. Provision should therefore be made to ensure that the revaluation of career average schemes and pensions in deferment are not reduced to CPI as a result of this policy. GMB regrets that neither this consultation nor other applications of this policy to PPF, FAS or *nuvos* pensions has recognised this issue and we urge DWP to re-examine this point.

Little if any reasoned argument has been made for this attack on pension savers' retirement income by government. The money generated by the change, and GMB believes the total will significantly exceed the conservative estimate being used in this consultation, will not flow to the Treasury as it will from the unfunded public sector pension schemes. It will not be the swaying argument to any employer considering closing their defined benefit scheme and there is no evidence that the use of RPI rather than CPI indexation as standard is the barrier to employers setting up new defined benefit schemes. If DWP has any evidence to the contrary GMB would welcome its publication. In fact the savings will be absorbed by private sector scheme sponsors or in many cases their parent companies, many of which are registered overseas. The government in essence is taking at least £85bn from the section of the population that spends the vast majority of its income in the UK and disproportionately in local businesses and is subject to UK taxation; and giving it to big companies that are largely owned by non UK registered parent companies.

GMB welcomes the extension of the consultation requirements to compel employers to consult on changes to scheme provisions regarding pension increases. We also believe that members should be notified if the indexation of the pension they are saving for will differ from the basis historically outlined. This occurs primarily where the wording of the Trust Deed and Rules do not require a rule change to change the

indexation basis from RPI to CPI but standard practice for that scheme has been to use RPI in the past (as is likely to be reflected in the scheme's members' booklet for example).

Clarity is further needed where the Trust Deed and Rules may be subject to different interpretations on when RPI should be used. The presumption should be that if the construction intended to be used puts members in a worse position than they would have expected but for the government's change in policy there should be as a minimum a standard 60 day consultation. Some schemes and employers have decided to do this themselves in accordance with general good practice but there will be many more schemes that have not chosen to notify members that their scheme practice will change.

Particular issues arise for members who have transferred in benefits to a scheme that will now only provide CPI indexation and for those who have decided to enter into a contract to purchase additional pension. In both these cases the value of the transferred benefits and the cost of purchasing additional pension are sensitive to the method of indexation. In turn this means it may be necessary for individuals to review the advice they received at the point of transfer or purchase, many will believe that as a result of this change the benefits of transfer/additional pension purchase were misrepresented.

We strongly support DWP's intention not to impose CPI on all occupational pensions through a statutory override provision. GMB believes this would cause unnecessary workplace tension and undermine collective understandings that have been developed by employers and employees in a substantial number of companies. We further support an extension of the consultation obligation to cover a broad range of indexation issues.

In conclusion GMB urges DWP to resist any calls for a statutory override provision and to reconsider the costs and ramifications of the unilateral and universal application of this cut in the value of pension saving.

The Capita response was provided in a format DWP could not publish on our website. The following is a transcript of the Capita response.

CAPITA HARSTHEAD

Private & Confidential

Information redacted

Department for Work and Pensions
7th Floor
Caxton House
Tothill Street
London
SW1H 9NA

1 March 2011

Dear **Information redacted**

RE: THE IMPACT OF USING CPI AS THE MEASURE OF PRICE INCREASES ON PRIVATE SECTOR OCCUPATIONAL SCHEMES

Introduction

Capita Hartshead is the largest third party administrator of occupational pension schemes in the UK and also act as consultants and actuaries to a significant number of schemes in all sectors.

With over 30 years experience in the field of administration and specialist professional services, and 3.4 million members under management, this gives us a wealth of industry expertise. We have over 500 occupational pension scheme clients covering all types of arrangements.

We welcome the opportunity to respond to the consultation on the impact of using CPI as the measure of price increases on private sector occupational pension schemes. Our comments on the questions set out within the consultation have been include below.

Responses to consultation questions

1. The Government welcomes views on whether the impact of using CPI has been correctly summarised.

We agree with the summary of how the change to using CPI to measure pension increases will affect schemes, depending on how their rules are worded. We note the result of this will be that the inflation figures used by schemes will be based on the lottery of how their rules were drafted and whether RPI was hard-wired into the rules at that time.

Our experience suggests that a majority of schemes specifically reference RPI within their rules when referring to indexation, whilst the majority of schemes refer to the statutory legislation with respect to revaluation.

The fact that private sector schemes are not automatically entitled to use CPI rather than RPI, as it will depend on the rules of their scheme, will further impact defined benefit schemes remaining accessible in the private sector, whereas public sector schemes should not have any issues adopting CPI for revaluation

and indexation going forward as they tend to be subject to review orders via Pension (Increase) Act 1971.

2. The Government welcomes views on whether it is right to apply the employer consultation requirements in respect of changes scheme rules on indexation and revaluation.

We agree that, as any changes to scheme rules relating to statutory indexation and revaluation will directly affect member benefits, the employer consultation requirements should apply. It is good practice to keep members informed on changes to schemes and given the substantial media coverage generated by this topic, it is something that members will no doubt want to be consulted over.

However, this could be seen as unfair to the members who have had their benefits automatically switched to using CPI due to wording of rules, without the opportunity for consultation. Therefore, we would recommend trustees and employers communicate this message to ensure there is clarity about the scheme's provision.

3. The Government welcomes views on the draft Occupational Pension schemes (Consultation by Employers – Amendment) Regulations 2011

We would query when the draft regulations are due to become effective and whether they will be retrospective if a scheme wishes to amend its rules now.

4. The Government welcomes views on whether there are any issues that should be considered in respect of career average arrangements.

We note that care CARE schemes may use final salary revaluation in deferment, as permitted by the Pension Schemes Act 1993, and they will face similar issues as other defined benefit schemes. In addition, these schemes will have the same issues in relation to indexation of pensions in payment.

5. The Government welcomes views on whether there are any issues that should be considered in respect of GMPs.

We would question whether the proposed amendments will have any impact for those schemes who wish to use or have already used the GMP conversion regulations. Also, GMP liabilities may have been bought out and costed on an RPI basis and there is the long-term issue of equalised GMPs.

6. The Government welcomes views on whether there is any justification for overriding the rules of private sector occupational schemes to impose CPI as the measure of increase in prices.

Overriding the rules of the private sector occupational pension schemes to impose the use of CPI as an inflation measure would be one way in which to solve the issue of the lottery of how rules are drafted, and the impact that this has on members. In addition, mandatory adoption of CPI would remove the conflict that may occur for trustees when considering whether to use an amendment power to adopt CPI (see the below point).

However, we agree that a statutory override is probably not justifiable and again, given the media attention that the issue has attracted, such a move would not be welcomed by the public and would not be good for trust in the pensions industry.

– particularly as it relates to accrued rights and benefits currently in payment. Trustees and employers should have the flexibility to make choices regarding their own arrangements on revaluation and indexation.

From an investment strategy point of view, it is noted that there is currently little market for CPI linked assets; were the Government to impose CPI as an inflation measure, the demand for such products would need to be taken into consideration.

7. The Government welcomes views on whether there are other reasons why a scheme whose rules do contain a modification power would nonetheless be unable to, or find it difficult to, use CPI for indexation and revaluation.

Our view is that schemes which do contain a modification power will generally not wish to attempt to modify benefits which are already accrued as this would be extremely difficult due to section 67 of the Pensions Act 1995. Therefore, even for schemes which do contain a modification power, there continues to be a disparity due to how rules were originally drafted. For schemes that are already closed to future accrual or about to trigger wind up, this also means that they may not be able to make the change for their members.

8. The Government welcomes views on whether it is right to rule out granting modification powers.

The provision of modification powers would provide an approach to put the emphasis back on trustees and employers to have powers over their own schemes. The fact that trustees and employers are at the mercy of how rules have been historically written means that a level playing field is not achieved with the ruling out of granting some element of modification powers.

Trustees will be considering whether changes would be in the best interest of scheme members; when considering the funding level of the scheme and covenant of the employer, trustees may feel that it would be in the best interests of members to implement the use of CPI. In addition, employers may feel that implementation of this change will assist keeping defined benefit schemes open.

9. The Government welcomes views on whether there would be a way to restrict any modification power to those schemes which had previously adopted RPI solely in order to match statutory minima.

The appropriateness of the adoption of CPI rather than RPI will depend on a scheme's individual circumstances. Therefore, we feel that it would be more appropriate to allow schemes a modification power to implement the changes if they feel appropriate.

10. The Government welcomes views on whether you agree the issue of CPI underpins should be addressed.

We strongly agree that legislation should ensure that schemes who do choose to continue to use RPI as a measure of inflation should not be penalised by having to comply with a CPI underpin. It is noted that in six of the last twenty one years, CPI has been higher than RPI. Therefore, by implementing a change which was designed to relieve funding burden on defined benefit schemes, the Government would actually be serving to increase the burden for a number of schemes. In

addition, the requirement to track both indices would be administratively more complex.

The Pensions Bill has addressed this issue in part, but there are still underpin issues around schemes which don't reference statutory legislation for revaluation or where the scheme rules for indexation don't expressly state RPI or statutory legislation.

11. The Government welcomes views on whether there are any other options to address the CPI underpin issue.

Amendments to existing legislation should eliminate this issue, but note above that the Pensions Bill does not address all scenarios.

12. The Government welcomes views on whether the proposed amendments to remove references to RPI from primary legislation are satisfactory.

We agree with the proposed amendments to primary legislation.

Information redacted

Yours Sincerely

Andrew Short
Technical Manager