

## FAS FAQs for European Court of Justice ruling

### 1. **Q: How will FAS calculate any increase?**

A: We are the scheme manager for FAS on behalf of DWP and administer according to their instructions. Where we find FAS standard assistance is less than 50 per cent of the value of the member's original scheme benefits we will increase it (following a similar approach to that described for PPF members).

For the time being, the process will only capture members of FAS insolvent schemes. This is because the directive applies to insolvent schemes and there is no legislation in place which would allow us to pay any increase to FAS members of solvent schemes. DWP is considering the action they may take on this point.

A FAS insolvent scheme is a scheme where either the employer's insolvency took place before the date of scheme wind up, or the employer became insolvent after scheme wind up started while it still owed money to the Scheme or there was a deemed insolvency under FAS rules.

### 2. **Q: I'm a Long Service Cap (LSC) pensioner. Why haven't I been contacted?**

A: We have only contacted LSC pensioners who we've assessed will be entitled to an increase because the LSC took their assistance below the 50% minimum. We also asked some of these members for any information they might hold that would help us in our assessment. If we haven't contacted you yet, we've concluded that the LSC has not taken your assistance below the 50% minimum. We're in the process of writing to these members to let them know.

### 3. **Q: I'm a LSC pensioner and I've received a letter saying you don't think I'm entitled to an increase. I disagree with your calculations. What can I do?**

A. At the moment we've only assessed whether the application of the LSC to your assistance takes it below the 50% minimum. There are other factors which could mean that you are not receiving as much assistance as you are entitled to. We haven't yet assessed your entitlement against these factors. However if you have documentation to show our assessment is inaccurate, you should write to us with that documentation.

### 4. **Q: Are you on track to start making payments soon and to conclude paying all eligible LSC pensioners their increases by the end of April 2019?**

A: Provided we have all of the necessary information we need, we're on target to make increased payments by the end of April 2019 to all LSC pensioners we've already contacted where the LSC took them below the 50% minimum. If there will be any delay in making increased payments, we will contact members individually.

However, a number of PPF members and others have begun court proceedings which seek to challenge, among other things, the PPF's basic method for calculating the Hampshire increase. As a result of this member challenge, we currently intend to limit the arrears payments which we had intended to pay to eligible LSC pensioners by the end of April 2019. This is to avoid the risk of having to recover overpayments from

members, if the court were to decide that the PPF must take a different approach to calculating the Hampshire increase. Interest will continue to accrue on the arrears.

5. **Q: I'm a capped pensioner. Why haven't I been contacted?**

A: We're dealing with groups of members in a particular priority order. The first group of members we're assessing are those who are affected by the Long Service Cap, and when this has been completed, this will be followed by members affected by the Compensation Cap.

We're in the process of writing to the capped members who we believe are most likely to be entitled to an increase because the cap took them below the 50% minimum, to see if they have any information that might help us carry out our assessment. This assessment involves a comparison of their scheme pension against their FAS assistance.

For those capped members who, after an initial assessment, do not appear to be receiving less than the 50% level, we'll write to them to let them know. Those members won't need a full assessment.

We currently expect to finish looking at the group affected by the Compensation Cap in the summer of 2019.

6. **Q: Why are we asking members for information instead of their former schemes?**

A: Although we hold information to calculate FAS assistance under the existing legislation, we don't have all information about members' original scheme benefits. This means we're likely to need further information to be able to apply the 50% minimum in individual cases.

We've been collating relevant information from various sources. As members will often hold information about their scheme benefits, we're contacting members to see if they have information which could potentially help us. In addition, for some members whose schemes closed some time ago, it's likely that the member themselves may be able to give us the information we need faster, in particular where scheme documents have been archived. We're grateful to members who have helped us with this task.

7. **Q: I'm deferred, and won't be retiring for some time. Will I be affected, or informed of any change in my benefits?**

A: Our approach is to prioritise pensioner members first. When we've dealt with this group we'll consider how best to handle the remaining members, such as deferred members and survivors.

If we think you're affected by the judgment, we'll write to you. You don't need to contact us. Unfortunately because of the scale and complexity of the work involved we're unable to give a precise timeframe on when we're likely to finish this exercise. We'll publish more on this in due course.

8. **Q: I'm due to retire soon. Can I have a new illustration, to show what I would receive following any increase I might be due?**

A: Any figure we've given you so far won't take account of the impact of the Hampshire judgment, as this has not yet been implemented. Any retirement illustrations we give will be based your FAS assistance before any increase in respect of the judgment.

We're also looking on a case by case basis at members who're approaching retirement and are likely to be capped, to see if an adjustment is necessary. However, at this stage, this is only to highlight the member's potential eligibility for an increase as a capped member. We anticipate that these will be adjusted at the same time as capped pensioners. Please let us know if you think you might be affected and are expecting to retire in the next few months.

9. **Q: I'm not affected by a cap, but I believe I still might be due an increase to my assistance?**

A: We believe that most members are receiving more than 50% of the value of their original scheme benefits. However, in some cases, members may be receiving less than 50% because the increases they would have received under the scheme are significantly more than those in FAS.

We'll look in due course at schemes where pension increases in payment and deferment were significantly more than those in FAS, to identify whether any members are entitled to an increase. If we think you're affected by this, we'll write to you. You don't need to contact us.

Unfortunately because of the scale and complexity of the work involved we're unable to give a precise timeframe on when we're likely to finish this exercise. We'll publish more on this in due course.

10. **Q: If an eligible member were to die before their increase is paid, will the arrears be paid to their estate?**

A. Any member who would have been eligible for an increase to their FAS assistance but has passed away, will still be eligible to receive that increase. We will try to pay the member's estate any arrears due but unpaid when the member died, but we may need to modify our approach where we can't find the executor. In addition, any survivors receiving compensation following the member's death will receive an increase to their assistance payments.

11. **Q: Is there a time limit for bringing for a claim**

A. For PPF members the Board will not without further notice treat time as continuing to run after the CJEU judgment, so no one will be prejudiced by not making a legal claim for arrears now. DWP have confirmed the same applies to FAS members.