

"Beyond Parsimony"

Bulletin No. 25



Questions of law, fiduciary duty and good faith.

Bulletin highlights

- *New Year Message from the Steering Group*
- *Update on the two legal pathways – R1 and R2*
- *Our submissions: The legal and moral case*
- *Involving the Pensions Ombudsman (PO)*
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“The Trustee with the agreement of the Company intend to follow a policy of increasing pensions fully in line with the cost of living wherever possible and provided the Scheme has sufficient resources to do so.”

BP Pension Policy Statement (2002)

Welcome to Bulletin 25

Dear Roald,

Happy New Year!

In May 2023, when BP’s Chief Executive, Bernard Looney responded to a Pensioner letter to say: “*the pension review is closed*”, he hoped that was the end of the matter. He clearly didn’t get that right, judging from the evidence of our campaign.

The Steering Group (SG) met in January to review progress after 20 months of tremendous activity and support by BPPG members. Whether you simply added your name to our numbers or donated funds, created campaign materials, wrote to your MP, ‘Liked’ or commented on a social media post, or made your views known directly to the Company or the Trustee by letter, email or at BP’s AGM, then you have all contributed to this campaign. Thank you greatly.

We are also indebted to the small working sub-groups for how the campaign runs and is sustained. The *Social Media team, Bulletin team, Library, Membership, Finance, AGM and Special Ops* to name a few. You know who you are – thank you!

All your efforts over 20 months have now allowed us to put a really powerful, credible legal and moral case to both the Company and the Trustee. We do not know their response yet.

We do know that one way or another – in the absence of a satisfactory response - this dispute will get a proper legal hearing and determination in a courtroom or via the jurisdiction of the Pension Ombudsman (PO).

That is why it is timely to repeat our request (below) to all BPPG members – please ensure you do not pursue individual complaints with the Ombudsman at this time.

This bulletin and its attachment aim to provide you with the fullest picture possible of our legal and moral

case as it stands today – without breaching the legal constraints imposed upon us.

We hope it confirms that we are ‘on track’ and that we have your continued support to see this through to a fair and just outcome.

Best wishes to everyone for the year ahead.

Suzie Baverstock

Colum Doyle

Mike Hennessy

Jonathan Popper

Mike Slingsby

Adrienne Tallents

BPPG Steering Group

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Update on the Two Legal Pathways

In the December bulletin (No 24) we reported that we had initiated two legal pathways aimed at resolving the pensions dispute.

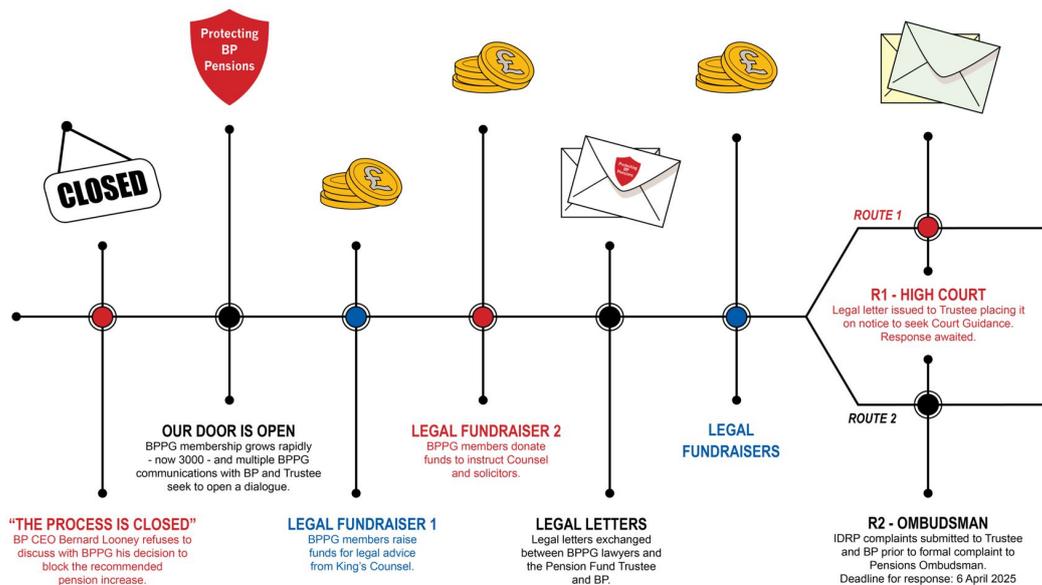
Under Route 1 – High Court Beddoe Order, a closely argued legal letter was submitted that places the Trustee ‘on notice’ that a number of important legal questions relating to the Fund’s Pensions Increase Policy (PIP) require clarification through an approach to the High Court by the Trustee on behalf of – and in the interests of - the Fund beneficiaries. Our solicitors **Stephenson Harwood** have since received an acknowledgment of this letter from Linklaters who are acting for the Trustee.

Under Route 2 - Ombudsman, formal complaints and proposed remedies were submitted separately to BP and to the Trustee. The Pensions Ombudsman requires that complainants complete this formal ‘dispute resolution’ process with the Trustee and BP before he will accept the complaint for investigation and then a legal determination by his Office.

Receipt of both complaints has been separately acknowledged by the Trustee and bp.

The Trustee’s Internal Dispute Resolution Procedure (IDRP) means we should expect a full response within 4 months ie. no later than the first week of April 2025.

BP has no formal process but under the PO’s guidelines, where no formal process exists, a response within 8 weeks is expected ie. by first week of February 2025. **Herbert, Smith, Freehills** – lawyers acting for BP - have written to us on the 29th January seeking our understanding for a delay in their client’s response. We don’t consider this unreasonable given the matters raised in our formal complaint submission to BP.



BP Pensioner Group : Our Journey Towards Justice

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Our Submissions to BP and Trustee: The legal and moral case

In December, we elected not to publicise the formal complaint/remedy submissions made to the Trustee and BP. We did so partly on grounds of legal confidentiality and partly to provide the two parties with a window in which to consider the issues raised and to assess their initial response – if any.

We were conscious that the Trustee board meets regularly in the months of December and January each year in which they consider the annual pension increase due to be paid each May. After two months, we judge that period is at an end and it is right that we share as much detail as we possibly can with members without breaching legal privilege and especially avoiding breach of the Non-Disclosure Agreements signed by members of the SG which relate to information contained in the full formal complaint submissions.

Attached to this bulletin we have prepared a detailed background paper: *'BP's UK Pension Dispute - Questions of law, fiduciary duty and good faith'*.

Perhaps most importantly, the paper concludes with summaries of the formal complaints and proposed remedies that were submitted to the Trustee and to BP on 6th December as part of our Route 2 proposal with only minor redactions to observe legal restrictions.

Much has happened since the dispute began and we hope this detailed paper will provide you with the

fullest picture possible of the case we are making to the Trustee and BP.

Sharing with other members of the BP Pension Fund

As usual, we ask members not to distribute these materials in an uncontrolled manner.

That said, you may have former BP colleagues who so far feel relatively unaffected financially by the pension decisions in 2022 and 2023 and have not joined the BPPG.

This paper may be a good opportunity to share with them the full story and highlight two things in particular:

1. The 11% reduction in the value of the pension as a result of decisions in 2022 and 2023 is not a temporary one-off impact that is now in the past. It has permanently reduced the purchasing power of our pensions in every future year of retirement and potentially many years after that where dependants outlive us. The compound effect of lost pension across those years will be substantial and not a 'one-off'. For example, a BP pensioner receiving £20,000 per year has lost £2,200 a year in real terms. If they live for another 20 years, then they've lost, in today's money, $20 \times £2,200 = £44,000$.
2. Whilst the Fund, according to its actuary, is well hedged against inflation, recent events indicate that BP pensioners are not. That is why determining the legal standing of the Pension Increase Policy today is essential to the protection of our pensions in the future.

Please contact us at contact@bppensionergroup.org if you have questions relating to the sharing or use of this material.

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Involving the Pension Ombudsman (PO)

The BPPG Steering Group (SG) first contacted the Ombudsman in July 2023 when we put on record and provided details of the pension dispute that had arisen with BP and the Trustee.

From the PO response, several things were apparent:

1. Before a complaint can be accepted by the PO, the complainant must complete the Trustee/Company Internal Dispute Resolution Procedure or similar.
2. We previously advised that BPPG members should not pursue their own individual complaints as it would risk a premature, binding determination that could prejudice a fully worked up, legally advised, collective complaint. That remains the case today and for that reason, **we repeat our urgent request to all BPPG members – please ensure that you do not pursue individual complaints with the Ombudsman at this time.**
3. The Ombudsman has a significant backlog of complaints and time delay.

4. There is a 3-year deadline from the date when the issue - which is the subject of the complaint - becomes known to the complainant up to the date of submitting a PO complaint. For our complaint - where it relates to the 2022 pension increase - the deadline is ostensibly April 2025. That said, the PO has the power to waive this deadline and we have had discussions on this matter with his office given the protracted exchanges between BPPG and the Trustee and BP over the past 20 months. Given that our complaint also relates to pension decisions made by the Trustee and BP that only became known to the complainants in April 2023, we have a second deadline of April 2026 to submit.

As you know, with the generous support of BPPG members, we elected to take expert legal advice in 2023, issue legal letters to the Trustee and BP to establish key facts and points of law to support our case. This has allowed us to currently pursue two potential legal routes in parallel – the High Court and the Ombudsman.

During 2024, we continued our dialogue with the Ombudsman (see [October 2024 Bulletin](#)) explaining the potential for hundreds or even thousands of individual IDRPs to be made by BP Fund members which could end up in the PO in-tray.

Most recently, [Ombudsman Dominic Harris](#) has set out measures to expedite multi-party complaints by the PO selecting – in agreement with the parties - a lead complaint and complainant. His investigation and legal determination on this lead complaint could then be applied in the most efficient manner by the Trustee or employer to all those Fund members affected.

Expediting the hearing of our complaint is a priority of course. None of us is getting any younger! We are in a good position to develop a lead complaint based on the work we have completed and we will continue our dialogue with the PO office with this in mind and keep members informed.

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A Request Coming to Members Shortly

If the Beddoe application fails to go to a full determination for whatever reason then the matter will be referred to the Pension Ombudsman (PO) for legal determination. Preparations are underway to achieve this.

We wish to include *real examples of pension fund members who made important life decisions based on the reasonable expectations they had that the BP Pension Increase Policy would be honoured in line with its terms.*

These include, for example, BP Fund members who transferred their pensions into the BP Pension Fund from former employment; left their pension in the BP Pension Fund when leaving to move to other employment; took early retirement under redundancy programmes with immediate pension; agreed financial settlements on divorce; or were former Burmah Castrol employees persuaded to transfer existing Burmah Castrol pensions into the BP Scheme.

Later this month, we will issue a bulletin to ask if you 'fit' one or more of a number of such categories. Your example may provide useful information in support of the formal written complaint to the PO.

We will analyse responses and then contact people for consent to reference their example. This is an important exercise in support of our claim and we hope you will consider the request carefully and respond.

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UK Government Announcement - Pension Surplus Extraction

As this Bulletin went to press, the UK government announced it intended to “make changes to pension rules to allow trapped surplus funds to be invested in the wider economy, fuelling economic growth”. The new policy details will be set out 'this Spring'.

UK Defined Benefit pension funds currently have a total surplus of assets over liabilities of £160 billion. Our BP Fund enjoyed a 23% surplus of assets over liabilities or approaching £4 billion at end 2023. The full statement can be read here together with some reactions by representatives of the pensions industry.

[Click to read
UK Government Statement](#)

Members may recall that the BPPG made a detailed submission last year to the Department of Work & Pensions consultation on pension surplus extraction ('Options for Defined Benefits') which you can read [here](#).

[Click to read
Submission to DWP](#)

When the new policy details are published, we will carefully review what is proposed and any implications for our Fund and the current dispute.

Things to bear in mind:

1. The BP Pension Fund Trust Deed has prescriptive clauses dealing with how surpluses may or may not be extracted. The Trustee will need to weigh if and how new legislation might override and erode these protections.
2. Given the arguments put by BP and the Trustee as to the importance of the surplus for 'safeguarding' the Fund, it would require a U-Turn of heroic proportions for either party to now argue that they support the release of even a penny of the Fund surplus back to BP for it to 'invest' as leaders see fit.
3. The government announcement poses difficult questions for the Trustee in regard to its current plans to transfer Fund assets (and surplus) to insurance companies as part of its '*Buy-In de-risking*' strategy –

which it revealed to the Financial Times in 2023. It is not at all clear how that strategy would support the Government's aim to grow investment in the UK rather than 'run-on' the current arrangements whereby the Trustee and the Fund's expert investment team continue to oversee how all the Fund's assets are invested on behalf of and in the best interests of the members.

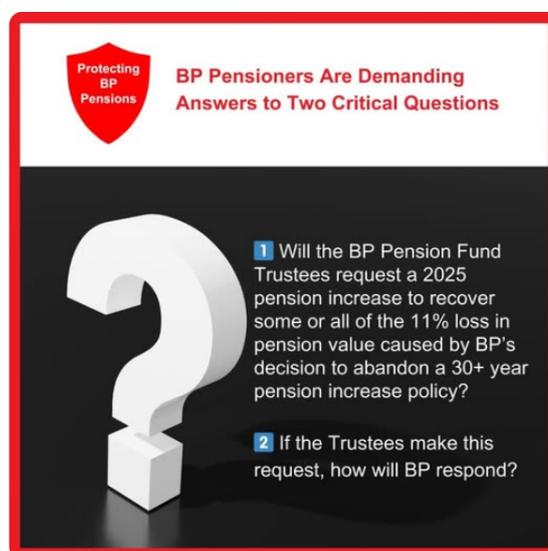
We will keep members updated in due course.

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The Ongoing Campaign

While much attention and considerable effort has rightly been focused on pursuing the two legal pathways, the campaign has been busy in other areas not least the social media team.

The 'drumbeat' initiative posting across various digital channels has had a particular focus on BP's self-promoting brand and reputation messaging. Please 'Like', comment or repost to add your support. While the legal aspects of our campaign are now in the hands of the Trustee and BP and their lawyers, you can expect to see some new themes deployed via various social media channels and in other channels.



Protecting BP Pensions

BP Pensioners Are Demanding Answers to Two Critical Questions

1 Will the BP Pension Fund Trustees request a 2025 pension increase to recover some or all of the 11% loss in pension value caused by BP's decision to abandon a 30+ year pension increase policy?

2 If the Trustees make this request, how will BP respond?



The political team is weighing the latest news from the government on surplus extraction. This will also provide responses to earlier consultations that involved detailed submissions by BPPG to the Select Committee and the Dept of Work & Pensions. We continue to update MPs on aspects of the campaign and with whom we have built excellent relations. There are many new MPs now in place and we will be developing plans for outreach in due course.

We also keep key mainstream and pensions journalists briefed on our dispute and there is continuing interest in further reporting as new developments occur.



Finally, the AGM team is once again active with plans for participation in BP's 2025 meeting following its success in posing difficult questions about the pension dispute at the 2024 meeting.

Watch this space.

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Legal Funding Update

Through your generous donations, you may recall we raised c. £80,000 last autumn which enabled us to press our case under 'Route 1 – Trustee to seek a Beddoe Order from the High Court'.

The legal work culminating in a lengthy detailed letter to the Trustee incurred legal and fundraising admin fees of c. £52,000 incl VAT. This leaves a balance of c.£28,000.

We will provide a fuller account of fundraising and legal costs in a future bulletin.

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Don't forget all the documents mentioned in the bulletins are in [The Library](#) as well as all the previous bulletins if you've missed out.

[click to access all Bulletins](#)

Next Bulletin

February and **March** will see the campaign **focus** on **preparing** for possible responses from bp and the Trustee, **maintaining** pressure on the key Political individuals & groups to support our campaign and **continued** media & social media action. **We will seek to keep you fully informed by bulletin or email.**

Did you receive this bulletin from an ex-colleague, friend etc? Would you like to become a member of the BPPG and receive future bulletins & important news about the campaign? Follow this link to join

<https://bppensionergroup.org/join/>

Social Media & WhatsApp groups

You may not be an active user of social media but if you have ideas for useful themes or would like to get involved then please contact the team at social@bppensionergroup.org.

There are a few different ways you can stay in touch with the campaign, as well as this Bulletin and our two WhatsApp groups (to join click buttons below), another way to stay in touch is via social media on the [BPPG LinkedIn Group](#) and [BPPG Facebook Group](#). Links to these groups can be found at the end of every Bulletin.

Join the melee or just get the critical info!

If you haven't signed up to **one** of the WhatsApp groups yet - follow the link below and join the group you want to be part.

[Join 'Chat' WhatsApp](#)

OR

[Join 'Info' WhatsApp](#)

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Thanks for getting involved and supporting the campaign.
You can contact the Steering Group at contact@bppensionergroup.org



BP Pensioner Group



BP Pensioner Group

contact@bppensionergroup.org

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