

# "Beyond Parsimony"

Bulletin No. 30



## Pension Ombudsman Complaint - Where We Stand

### *Bulletin highlights*

- *A Complaint to the Pension Ombudsman (PO)*
  - *The Government's Pension Surplus Extraction Proposals*
    - *Important Request for Action*
  - *Artificial Intelligence (AI) Pitfalls*
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# Welcome to Bulletin 30

We have two important things on our minds as we go to press on this August bulletin.

## 1. *A Complaint to the Pension Ombudsman (PO)*

Earlier this year, BP rejected our formal complaint regarding decisions it made in regard to the 2022 and 2023 pension increase. Last month, we informed you that the Trustee had also rejected our Internal Dispute Resolution Complaint (IDRP) submitted by members of the Steering Group in December 2024.

The Trustee also rejected the legal arguments put to them by our solicitors that they should seek the direction of the Court on key legal questions raised by the pension increase decisions made by the Trustee and BP in 2022 and 2023. The Trustee has now published its own summary statement on its response to our IDRP complaint on PensionLine and for ease we have attached a copy with this email.

The Trustee's actual formal response to us was 50 pages in length and made reference to 'confidential' Trustee documents which they have made available to the Steering Group but restricted their use by requiring that we sign a Non-Disclosure Agreement (NDA) provided by the Trustee's lawyers Linklaters. The NDA 'evidence bundle' that we have now received is 1,300 pages in total.

As you will appreciate, this has created a substantial workload as we examine these papers in detail and regrettably, the NDA severely curtails our ability to provide you with the fullest picture of the evidence on which the Trustee now relies. We do not expect to complete our work for several weeks – not least as our small legal subgroup are taking well-deserved holidays - but we will update you as soon as possible.

The one positive from all this is that the completion of the IDRP stage clears the way for our submission to the Pensions Ombudsman to be finalised. This will be the first opportunity for an objective, legal determination to be made of all the matters we have raised.

The need for a clear legal determination was underlined once again last week as we saw annualised RPI inflation reach 4.8%. The threat and impact of exceptional inflation to retirement incomes can be both unexpected and significant - as we saw in 2022 and 2023.

It is the very reason why BP and the Trustee put in place and promoted the Pension Increase Policy to many thousands of staff and retirees over many years – to provide the necessary protection should inflation increase above 5% and where the Fund had "sufficient resources".

That remains at the heart of this dispute.

## 2. *Government plans for pension fund surplus extraction*

In the June bulletin we provided an explanation about the Government's new Pensions Bill 2025 which *"seeks to remove barriers preventing Defined Benefit pension schemes from accessing surpluses, which can then be used productively across the UK economy and to the benefit of millions of members."*

The Steering Group has made a written submission to the group of MPs now charged with scrutinising the Bill at its 'Committee stage'. Their work begins on 2<sup>nd</sup> September and we expect will be televised on the Parliamentary channel. The Committee guidelines request that submissions are not publicised until the Committee publishes the detailed material which we expect will be in early September.

**In the meantime**, we can share with you that we have raised concerns and made proposals in three areas:

1. **Recognition of pension fund 'member interest' when it comes to consideration of surplus extraction.**
2. **Constraining the veto power of the Employer**
3. **Tackling Trustee board member conflicts of interest**

We will circulate a copy of the full submission with the next bulletin but in the meantime, you may wish to keep an eye at the Parliamentary website where this will be first published - see below for the link.

We hope you find this bulletin update informative.

**Many thanks and best regards**

[Suzie Baverstock](#)

[Colum Doyle](#)

[Mike Hennessy](#)

[Jonathan Popper](#)

[Mike Slingsby](#)

[Adrienne Tallents](#)

**BPPG Steering Group**

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## *The Government's Pension Surplus Extraction Proposal*

Keep a close watch on the Parliamentary website by clicking the link below and catch the first glimpse of the full submission when it is published.

[Click to view Parliamentary Website](#)

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# *Request for Action - Is your MP a member of the Pensions Bill Committee?*

Please let us know by emailing us at: [contact@bppensionergroup.co.uk](mailto:contact@bppensionergroup.co.uk)

The following are currently listed provisionally as members of the Pensions Bill Committee:

- Callum Anderson, Buckingham and Bletchley
- Olivia Bailey, Reading West and Mid Berkshire
- Torsten Bell, Minister for Pensions, Swansea West
- Kirsty Blackman, Aberdeen North
- Rachel Blake, Cities of London and Westminster
- Steve Darling, Torbay
- Sarah Edwards, Tamworth
- Damien Egan, Bristol North East
- Mark Garnier, Wyre Forest
- John Glen, Salisbury
- John Grady, Glasgow East
- Gerald Jones, Merthyr Tydfil and Aberdare
- Alice Macdonald, Norwich North
- John Milne, Horsham
- Luke Murphy, Basingstoke
- David Pinto-Duschinsky, Hendon
- Rebecca Smith, South West Devon

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## **Artificial Intelligence (AI) - Not always Intelligent!**

**BPPG members contact us on a regular basis with helpful documents, ideas, contacts etc. Thank you!**

One plea though – please be extremely wary of sourcing and sharing material – especially legal material – obtained from one of the Artificial Intelligence (AI) software programmes.

The current capabilities of generally available AI software is such that they can unwittingly create a lot of work for the SG legal sub-group chasing down cited legal cases that prove to be irrelevant or even in some cases bogus. etc.

We do value your help and thoughts on the campaign but in legal matters, you will understand that we have to tread extremely carefully on your behalf as well as our own in making the legal case.

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Don't forget all the documents mentioned in the bulletin are in *The Library* as well as all the previous bulletins if you've missed out.

[click to access all Bulletins](#)

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## Next Bulletin

This Autumn will see the campaign **complete** the submission to the Pensions Ombudsman, **monitor** and **lobby** on the development through Parliament of the pension fund surplus extraction proposals and continue to rebut claims by BP that "this matter is closed". **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/>

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## 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](mailto: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.

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If you haven't signed up to one of the WhatsApp groups yet - follow the links below and join the melee or just get the critical info!

[Join 'Chat' WhatsApp](#)

[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](mailto:contact@bppensionergroup.org)



## BP Pensioner Group



**BP Pensioner Group**

*[contact@bppensionergroup.org](mailto:contact@bppensionergroup.org)*

This email was sent to xxxxxx. You've received it because you've subscribed to our newsletter.

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## BP Pension Fund – discretionary increase complaints

At the end of last year, the Trustee received a joint complaint under its Internal Dispute Resolution Procedure from five Fund members concerning discretionary pension increases (“**Complaint**”).

Since then, these members have referred the Complaint (and a complaint against bp) to the Pensions Ombudsman. The Trustee has also received related complaints from five further members.

The Trustee has decided not to uphold the Complaint under its Internal Dispute Resolution Procedure.

This summary is provided as we appreciate the topic of discretionary pension increases may be of interest to members. It does not cover all the detail considered in the context of the Complaint, but it is intended to summarise the main points. We anticipate that the matter will now be considered by the Pensions Ombudsman. It may take many months before the matter is resolved, depending on the Pensions Ombudsman’s processes and timescales.

### Discretionary Increases

For most members,<sup>1</sup> pensions and deferred pensions are guaranteed to increase each year on 1 May with the Retail Prices Index (RPI) from the preceding December and this guaranteed increase is capped at 5% by the Trust Deed and Rules (though in the case of deferred pensioners a statutory underpin is also relevant).<sup>2</sup>

The Trustee can increase benefits by more if we think it is appropriate to do so, but only if bp provides its consent. bp has not given its consent to requests for discretionary increases made in recent years.

### Background

The Complaint concerns the years relevant to the 2022 and 2023 discretionary increase decisions when RPI exceeded 5%.

### 2022 discretionary increase decision

In 2022, the Trustee made an informal request for an increase of 2.5% for most pensioners and deferred members, in addition to the guaranteed increase of 5%, making a total of 7.5%. The requested 2.5% increase represented the full difference between the guaranteed increases under the Fund Rules and RPI for that year. However, bp was not willing to consent to any discretionary increase.

### 2023 discretionary increase decision

In 2023, based on the circumstances that then existed, the Trustee requested a discretionary increase of 4% to most pensions in payment, in addition to the guaranteed increase of 5%, making a total of 9%. This was less than a full RPI

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<sup>1</sup> Different increases apply to members of certain sections of the Fund. Certain elements of members’ total Fund pensions may increase at different rates, depending on their period of Fund service. Pension increases described in this summary note relate to increases on those elements which are guaranteed to increase at RPI capped at 5%.

<sup>2</sup> For further detail on how increases work during deferment, please see the summary which can be found by clicking [here](#)

increase for that year. bp did not give its consent to the requested discretionary increase.

### Nature of the Complaint

The Complaint is that the Trustee was in breach of its duties in making an informal request to bp for a discretionary increase of 2.5% in 2022 (so the total increase would match RPI for that year), and a request in 2023 for a discretionary increase of 4%, (rather than one which would mean the total increase matched full RPI).

A key part of the Complaint is that the Trustee:

- failed to consider a discretionary increase 'policy', originally publicised in 1989 ("**Policy**"); and
- did not challenge bp about its reasons for refusing to consent to discretionary increases.

The claim is that, as a result, the decisions made in 2022 and 2023 should be set aside and retaken.

### Trustee's decision

The board of the Trustee has taken these complaints very seriously and carefully considered them with its professional advisers. Having done so, we are satisfied that there were no breaches of duty which would justify setting aside the 2022 and 2023 decisions.

In considering future requests of bp for discretionary increases, the Trustee continues to review pensions and deferred pensions each year, recognising the previous decisions of bp and their impact on members among other relevant factors.

Members will be aware that the Trustee requested further discretionary increases in 2024 and 2025 (even though by this time inflation was less than 5%). bp did not consent to these requests.

### The previous pension increase policy

The Trustee considers that the previous Policy (which was a joint policy with bp) came to an end in 2006 when bp indicated its unwillingness to apply it in future.

The Policy had previously taken different forms, but in its original form stated:

*"It is the Trustees' and Company's intention to maintain a policy of increasing pensions to ensure that, wherever possible and subject to the resources of the Fund, they closely reflect changes in the Retail Prices Index".*

This was included in similar language in Fund booklets in the 1990s and early 2000s (with some later versions referring to the cost of living rather than RPI) and was referred to in a number of member newsletters and communications in this period.

Questions were raised by some members about the Policy after the 2023 discretionary increase decision. The Trustee therefore looked into its history in detail. This showed that after bp withdrew from the Policy in 2006, any mention of it was thereafter removed from Fund documents such as booklets, newsletters, retirement packs and actuarial valuation reports. The one exception was individual transfer out packs (including in the context of divorce proceedings), which in error continued to include reference to the Policy until 2016. bp's withdrawal from the

Policy was also acknowledged by the Trustee in internal discussions on a number of occasions between 2006 and 2010.

The current board of Trustee directors acknowledge that, although reference to the Policy was removed from Fund documents, its withdrawal was not explicitly communicated to members. As a result, we accept that some members may have continued to have expectations that, subject to the terms of the Policy, discretionary increases may be granted where RPI was greater than 5%.

Although the Trustee was not aware of the history of the previous Policy at the time of the 2022 and 2023 discretionary increase decisions, it was aware of and took into account, the pattern of past discretionary increases and likely member expectations in relation to discretionary increases. The Trustee does not therefore consider that an earlier investigation of the history of the Policy would have made any difference to the requests that it made for increases in 2022 or 2023 (the first of which was for full RPI) or to bp's decision as to whether to consent to those increases.

### **Challenging bp**

In addition, although the Trustee put a case to bp for discretionary increases in 2022 and 2023, the Complaint also claims that the Trustee should thereafter have challenged bp over the reasons it gave for refusing to consent to the requests.

We do not, however, agree that the matters relied on by bp were irrelevant, or that it was clear that bp was in breach of its own duties in refusing to give consent, or that making a formal request in 2022 would have changed the outcome.

### **Withdrawal of the Policy**

An alternative claim made is that the withdrawal of the Policy should have been communicated to members.

As noted above, although all references to the Policy were consciously removed from Fund-wide documentation from 2006, some 16 years before the 2022 discretionary increase decision, we acknowledge that its withdrawal was not explicitly communicated to members. Having carefully considered the matter, we do not agree that it amounts to a breach of duty by the Trustee, or that it made any difference to the decisions that the Trustee made in 2022 and 2023 or bp's decision.

### **Court**

The final element of the Complaint is a request for the Trustee to go to Court for guidance on a number of points in relation to discretionary increases.

While some members may not agree with the decision that bp has reached, the Trustee considers that it would not be appropriate for the Trustee to go to Court over that decision.

Trustees typically only go to Court for guidance where there is a real legal uncertainty over an issue about how a pension scheme should be administered. This reflects the time and very substantial cost involved in going to Court which in the first instance at least would need to be paid for from Fund assets.

Having carefully considered the matter, the Trustee does not consider there to be, in this situation, any justification for Court proceedings. It is relevant that even if the Court were to set aside the Trustee's 2022 and 2023 requests for discretionary increases, bp would still need to consent to any new request and there is no reason to believe that it would. As well as not consenting to the Trustee's requests in 2022

and 2023, as noted above, bp did not consent to further discretionary increase requests made by the Trustee in 2024 and 2025.

In addition, as already noted, in considering future requests of bp for discretionary increases, the Trustee continues to review pensions and deferred pensions each year, recognising the previous decisions of bp and their impact on members among other relevant factors.

### **Contact details**

The administration team cannot respond to any queries on this summary statement, given the detailed nature of the Complaint and that it has yet to be resolved.

Comments can be sent for consideration to [bpensionfundqueries@bp.com](mailto:bpensionfundqueries@bp.com), noting again that we may not be able to address all comments raised at this time.

**BP Pension Trustees Limited**

**17 July 2025**