

Strategy, Information and Pensions	
	Equality Impact Assessment The Financial Assistance Scheme

Equality Impact Assessment for the Financial Assistance Scheme

Context

1. Government Departments are required by law to eliminate discrimination and promote equality of opportunity. As part of this requirement Departments have a specific duty to carry out equality impact assessments on current and proposed functions, policies or services and any changes to them and to demonstrate how the policy or service meets the requirements of the Race Equality Duty, Disability Equality Duty and Gender Equality Duty.
2. This document is an equality impact assessment for the Financial Assistance Scheme (FAS). It outlines the purpose and impact of the scheme for its target customers (that is, members of defined-benefit occupational pension schemes who have lost out due to their pension scheme winding up under-funded) as implemented to date and also with respect to future proposals for the scheme. This equality impact assessment relates to the FAS scheme since it was established in 2005, including the benefit structure, and the staff managing the FAS.

The Financial Assistance Scheme

The original scheme

3. The FAS was designed to help those who suffered significant losses to their defined-benefit pensions as a consequence of employer insolvency between 1 January 1997 and 5 April 2004. It was first announced on 14 May 2004 and introduced in July 2005 and, since then, has been successively extended to cover more people and offer increased benefits.
4. The FAS currently operates as a top-up scheme. Assistance is paid to top up the annuity payment a member receives from their pension scheme where the amount of that annuity payment is less than 90 per cent of their expected pension as at the date the scheme wind-up began. The amount paid by the FAS is subject to an overall cap.

The December 2007 announcement of extensions to the FAS

5. On 17 December 2007 the then Secretary of State announced a significant extension to the FAS. The extension provided that:
 - the proportion of accrued pension covered by FAS would be increased from 80 to 90 per cent;
 - this amount would be subject to a cap of £26,000 the value of which would be protected against inflation;

Equality Impact Assessment for the Financial Assistance Scheme

- payments derived from post-April 1997 service would be increased in line with inflation, subject to a 2.5 per cent limit;
 - assistance would be paid from the scheme's normal retirement age, subject to a lower age limit of 60;
 - those who are unable to work due to ill health would be able to apply for access from the age of 60, subject to actuarial reduction;
 - where the share of scheme funds allows, people would be able to give up some portion of their assistance for a lump sum; and
 - FAS would be extended to members of schemes which wound up underfunded where the employer is still solvent.
6. The extension would be part-funded by taking into government the assets remaining in the FAS-qualifying pension schemes.
 7. The Government has been implementing the changes announced in December 2007 in stages, to give priority to those elements which offered the most help to FAS members.
 8. On 10 July 2009, due to its experience in managing pension schemes through wind-up and managing transfers of assets, the Board of the Pension Protection Fund (PPF) became the FAS scheme manager (the role was previously undertaken by the Secretary of State). Staff from the Department for Work and Pensions (DWP) who previously administered the FAS, were seconded to the PPF to continue to administer the FAS.

The future changes

9. The remaining elements of the December 2007 announcement (that are the subject of these regulations) still to be implemented are the transfer to government of remaining pension scheme assets and payments, by the FAS, to the members of those schemes.
10. When the Government takes in the assets remaining in the pension schemes no annuity will be purchased and the FAS will take on responsibility for making the complete payment for the relevant scheme members. The Government estimates that around half of the schemes eligible for the FAS will transfer at least some of their assets to government.
11. Some pension scheme members may have a share of assets in a scheme which is enough to provide a pension above the level guaranteed by the FAS. In taking in the assets of pension schemes, the Government will therefore:
 - make payments in excess of the level guaranteed by the FAS to members whose share of scheme assets would have been sufficient to pay pensions in excess of standard FAS assistance; and
 - allow certain members to commute part of their assistance for a tax free lump sum, calculated in line with current tax legislation for pension

commencement lump sums and restricted to the amount of the member's share of scheme assets.

Impact of the way FAS assistance is calculated

12. As with other matters of employment, occupational pension schemes and the FAS are prohibited from discriminating on grounds of:

- disability;
- gender and transgender;
- race; and
- age.

Disability Equality

13. FAS members are paid from their normal retirement age; that is, the age recorded in the rules of their pension scheme as the age at which the member would normally retire. Provision is made within the FAS for those who need to retire from work earlier due to ill health in the following way:

- where the member is terminally ill¹, unreduced FAS payments will begin immediately, irrespective of the member's age;
- where the member is unable to work due to ill health and has a significantly reduced life expectancy² as a result of a progressive disease, unreduced FAS payments will be paid from age 55; and
- where the member is unable to work due to ill health and it is not expected that their situation will change before normal retirement age, FAS assistance can be paid up to five years earlier than the member's normal retirement age, but at a reduced rate to reflect that their early retirement means that FAS assistance will be in payment for longer.

14. The Government believes that these ill-health provisions allow the FAS to meet its obligations under the disability equality duty, in taking steps to take account of disabled persons' disabilities, even where that involves treating disabled persons more favourably than other persons.

Gender and Transgender Equality

15. The Gender Equality Duty requires public authorities to actively address the individual needs of women and men. The FAS provides assistance to those who were members of defined-benefit occupational pension schemes and who lost pension when their scheme began to wind up under-funded. In the private sector, defined-benefit schemes were more commonly adopted by larger-scale employers in male-dominated industries such as engineering. In 2007, 61 per cent of active members of occupational pension schemes in the private sector

¹ Terminal illness is defined in FAS as having a life expectancy of less than six months.

² Significantly reduced life expectancy is defined in FAS as having a life expectancy of no more than 5 years.

Equality Impact Assessment for the Financial Assistance Scheme

were male³. It therefore follows that men are more likely to benefit from the FAS than women.

16. In addition, FAS payments are based on the rights accrued in pension schemes at the point of wind-up. As women are more likely to have a broken work history and receive lower pay than men, their accrued pension rights and thus any FAS payments based on those rights are also likely to be lower. However, the average longer life expectancy of women means that FAS payments are likely to be paid for longer, which also means that the indexation paid on post-1997 accruals by the FAS is more likely to be of greater benefit to women than men.
17. The higher pay and unbroken work history that generally leads to higher pensions for men means that it is likely that more men than women will be affected by the cap on FAS payments. The Government believes that setting limits on the level of assistance available is fair and a necessary part of the FAS structure when considering how to make the best use of available funds. The FAS cap⁴ is nearly three times the amount of average occupational pension and so will generally only impact on higher earners.
18. The FAS provides for assistance to be paid to a surviving spouse, civil partner. Assistance is also payable to surviving partners (of either sex) where they are nominated by the member or in circumstances where there is no surviving spouse or civil partner and the surviving partner is able to demonstrate financial dependence or inter-dependence. This is more likely to have a positive impact on women than men. As women generally live longer than men they are more likely to be paid survivor assistance. In addition, as they are likely to be younger than their male equivalents, assistance will be paid to them for longer.
19. Many schemes allow for the commutation of part of the pension entitlement to a tax-free lump sum when the pension is first put into payment, in line with tax rules. The FAS intends to allow certain members whose schemes are transferring assets to government to commute part of their assistance. If they decide to do so, their ongoing payments will be reduced. Any survivor payment due on death will reflect the reduced assistance of the deceased. As most beneficiaries of the FAS are men, who tend to have shorter life expectancy than women, most survivors are likely to be women.
20. Payment is made from an individual's normal retirement age, with a lower limit of 60 and a higher limit of 65. Where a person has accrued rights to more than one age, payments will still begin on the normal retirement age, but an actuarial uplift or reduction will be applied to reflect the other tranches of pension which would have been payable from a different age. Many older schemes used to operate on retirement ages of 60 for women and 65 for men, although this was changed to a single retirement age for both sexes after the *Barber* judgment in 1990. Where a scheme equalised its normal retirement age at a point higher than 60, women members will be more likely to have a significant tranche accrued to that age than men. This means that, while a woman might get more

³ OPSS, ONS accessed 2 June 2009 www.statistics.gov.uk/downloads/theme_population/Occ-Pension-2007/03_06.xls

⁴ Which is index-linked and currently stands at £29,386 a year for anyone whose entitlement begins between 1 April 2009 and 31 March 2010

Equality Impact Assessment for the Financial Assistance Scheme

at the higher retirement age (because of the actuarial uplift) she will have to wait until that point to access her assistance based on the earlier tranche of scheme entitlement.

Annuity Rates

21. Changes now being proposed to the FAS will enable the transfer of assets to government. A full financial Impact Assessment was published with the Regulations for consultation and this has informed this equality impact assessment.
22. The Regulations set out how a member's asset share is to be determined and how what is termed a 'notional pension' is to be calculated.
23. Pension schemes in wind-up previously secured liabilities by purchasing annuities for members. The Regulations provide that when scheme assets transfer to government, annuities will not be purchased, but the FAS will still need to calculate a member's individual share of the assets in order to determine the appropriate level of assistance. FAS-qualifying pension schemes will therefore need to provide details of the value of the member assets that are available to discharge the liabilities in respect of each member. The Regulations introduce the concept of a 'notional pension' calculation, which will be used to produce a figure which represents the level of pension a member's asset share could have bought from an insurance company.
24. Women generally receive lower annuity rates than men for the same lump sum. This is because women, on average, have a longer life expectancy than men and so the lower annuity rate reflects the fact that the pension paid by the annuity provider will be in payment for longer.
25. This use of gender as a factor in the assessment of risk, based on relevant and accurate actuarial and statistical data, already applies when undertaking a valuation for a FAS qualifying scheme and the intention is that this principle will also apply when calculating 'notional pension' rates.

Race Equality

26. Entitlement to FAS assistance is, by its very nature, restricted to members of defined-benefit occupational pension schemes. Any considerations of race equality therefore rest upon the workforce demographic of the qualifying scheme's sponsoring employer.
27. Employers will have their own procedures in place to monitor their policies relating to the ethnic diversity of their workforce. The Government believes that further monitoring of pension scheme membership is not required for FAS purposes.
28. The Government cannot foresee any issues of race equality arising following the transfer of assets, when the FAS takes over all payments to relevant members. Data on ethnic minority status is not needed to process an application to the FAS.

Age Equality

29. The FAS provides an income in retirement and is therefore governed by age-based rules concerning when assistance may be accessed.
30. Since October 2006, the Employment Equality (Age) Regulations⁵ have made it unlawful to discriminate against employees because of their age.
31. The Government is satisfied that making FAS payments to members from the pension scheme's normal retirement age, subject to a lower age limit of 60 and an upper limit of 65, meets the requirements of employment legislation and the Age Equality Duty.

Administration and operational considerations

32. The FAS Operational Unit (FASOU), based in York, opened for business on 1 September 2005, at which time the FAS scheme manager was the Secretary of State for Work and Pensions. The responsibility for managing the FAS transferred to the Board of the PPF on 10 July 2009, when the staff of the FASOU became employees of the PPF on secondment from the DWP. As employees of the DWP they are subject to the DWP's Equality and Diversity policies and standards, and the protection, rights and opportunities those policies provide. As an employer, the DWP is legally required to make reasonable adjustments to staff covered by the Disability Discrimination Act 1995 (c.50) (DDA). Like most other public sector employers, DWP policies go beyond this and cover staff who are not covered by the DDA.
33. Disabled staff have access to an occupational health service that provides advice on preventing or resolving health related issues which affect their ability to attend work, or do their job effectively. Any required changes (for instance, a different keyboard or a specific chair) requested by FASOU staff are provided by the PPF. All staff have equal access to training and development and specific programmes exist within the DWP to support ethnic minorities in career development and progression.
34. The PPF is a statutory corporation established under the provisions of the Pensions Act 2004 (c.35) which is accountable to Parliament through the Secretary of State for Work and Pensions. The Board of the PPF has the flexibility to use a commercial provider to undertake some of the administration work for the FAS, such as collecting information and making payments. At least for the first two years whilst DWP staff are seconded to work for the FAS, members may have contact with two separate units:
 - The Board's staff in Croydon or York on issues around entitlement; and
 - The commercial provider on issues around payment.

⁵ The Employment Equality (Age) Regulations 2006 (SI 2006/1031) and The Employment Equality (Age) Regulations (Northern Ireland) 2006 (SR 2006/261).

Equality Impact Assessment for the Financial Assistance Scheme

35. Staff at the FASOU will return to the DWP when their two-year period of secondment is over, although they may take up another post within the DWP before this if they so wish.

Disability Equality

36. DWP staff on secondment at the FASOU retain the terms and conditions of employment set by the DWP and so the Government does not believe the Board taking on responsibility for managing the FAS has had an adverse impact on any seconded staff with disabilities.
37. If, during their secondment, a disabled member of staff applies for a DWP vacancy they will be guaranteed an interview. If the interviewer wants to offer the job to that person, consideration is given to whether any adjustment needs to be done, in order for that vacancy to be filled by the disabled member of staff. If adjustments are needed they will be made, as long as they are reasonable. The PPF, when running its own recruitment exercises, will also interview all applicants for jobs where the applicants have identified themselves as disabled and who meet the minimum criteria.
38. The PPF, as FAS scheme manager, will assess the individual needs of disabled employees and make proportionate changes to accommodate staff with disabilities, working with external agencies and occupational health advisors. Occupational health advisors will provide referrals to ensure that the particular needs of staff are identified and steps taken to meet those needs.

Race Equality

39. The Government does not believe the Board of the PPF taking on responsibility for managing the FAS has had an adverse impact for staff on race equality. As previously outlined, seconded staff will keep their current terms and conditions during the secondment period.
40. The PPF advertises all vacancies externally, using specialist professional publications, national media and e-recruitment sites. All PPF staff have equal access to training and development. However, unlike the DWP, the PPF does not currently provide training programmes specifically designed to support ethnic minorities who wish to progress and work towards promotion.
41. The current recruitment methods used by the PPF are successful in attracting a diversity of candidates, but if the situation were to change the PPF would use minority publications to ensure they continued to attract candidates from minority groups. Year-to-date figures for the 2009/10 financial year show that of staff recently recruited to the PPF, 24 per cent of staff identify themselves as being of ethnic minority background and the distribution between men and women is 55 per cent and 45 per cent respectively.

Gender, Transgender and Age Equality

42. The Government does not believe the Board of the PPF taking on responsibility for managing the FAS has had an adverse impact on gender, transgender, or age equality. Seconded staff will retain their current terms and conditions during the secondment period. As a result, part-time and flexible working patterns will still be an option for staff; flexi-time is available to all staff in the FASOU and all staff can make a request to change hours. Applications may be made by staff with children under 16, or a disabled child under 18, under the terms of the Flexible Working Regulations⁶.
43. When the FASOU closes, the DWP will endeavour, where possible, to re-deploy staff within the DWP or wider Civil Service. The circumstances of individual employees will be taken into account, but in addition the DWP has mobility rules and staff who have 'limited mobility' (which would include part-time staff) would only be required to travel for up to one hour from home to office. Whilst every effort to re-deploy staff will be made, redeployment cannot be guaranteed.
44. The DWP no longer has a mandatory retirement age for employees in grades below senior civil service grades and there is no age restriction for posts within the DWP. There is no age restriction for any post within the PPF.

FAS members and other customers

45. In looking at the impact of FAS policy and implementation, the DWP has examined whether its method of delivering the service is fair and equitable, or whether a chosen approach does in fact disadvantage a particular group of people. The service offered by the FAS is primarily the administration of assistance payments, based on the collection of financial evidence from pension schemes. Therefore, it is the way that this information is passed from customers to the FAS and back again which has been considered.
46. Pension scheme members of a FAS qualifying scheme are able to contact the FAS by the usual and well-established means of telephone, letter and email. Textphone facilities are also available. In addition, information on the FAS can be provided as tapes, Braille or large print, where requested.
47. There are arrangements in place for the FAS to deal with someone other than the FAS beneficiary, either upon request or where the beneficiary is unable to deal with their own financial affairs. The process of nominating such a person has been made as simple as possible, whilst still meeting the obligations of the Data Protection Act 1998 (c.29).
48. The FASOU has access to the DWP translation services for written communications. In addition, if someone contacts the FASOU by phone and indicates that they would prefer to use a language other than English, a translator can be included in the conversation.

⁶ The Flexible Working (Eligibility, Complaints and Remedies) Regulations 2002 (SI 2002/3236), The Flexible Working (Procedural Requirements Regulations) (SI 2002/3207).

The transition from DWP to PPF management of the FAS

49. The following steps were taken to prevent any significant disruption in the service offered to FAS members when the Board first took on management responsibility, due to the split in the work as described above:
- a single contact phone number was provided for the FAS – customers contacting the FAS via this number were automatically routed to the correct team;
 - new FAS pages were created on both the DWP and PPF websites ready to 'go live' as soon as the PPF became the FAS scheme manager and all necessary information and web links were provided to ensure members could find the web content they needed;
 - the current postal address was maintained and FAS staff re-routed letters to the correct part of the organisation to be dealt with;
 - the current DWP-hosted e-mail address was maintained and e-mails re-routed by the FAS staff to the correct part of the organisation; and
 - a dedicated postal and e-mail address for members to contact the PPF directly was also introduced.
50. New customers to the FAS will now receive a PPF Welcome Pack. Initially this will be sent to existing retirees and those approaching their retirement age, to provide information on the FAS and the PPF.
51. Following the transfer of assets, all scheme members will start to receive their payments from the FAS rather than their pension scheme. The PPF as the FAS scheme manager will be required to inform anyone whose liabilities have been discharged as a consequence of the transfer of assets, of the transfer of relevant responsibilities from their scheme trustee to the FAS. During the two-to four-year period, when scheme assets are transferring to government, all remaining members will receive their PPF Welcome Packs.

Disability Equality

52. The DWP has not identified a detrimental impact for people with disabilities following the Board of the PPF taking on responsibility for managing the FAS. The DWP also cannot foresee any issues of equality arising following the transfer of assets when the PPF, as scheme manager, takes over all payments to members.
53. FAS members continue to be able to contact the FAS administrators by all means previously available. This includes arrangements for the FAS administrators to deal with someone other than the FAS member, should that member desire this, or where the member is unable to deal with their own financial affairs.
54. Specifically in relation to disabled people, the Board will promote equality of opportunity and encourage participation of disabled people who are members of the FAS. A variety of groups engage with the PPF. Services offered through trustees and the FAS commercial provider is delivered primarily by post,

Equality Impact Assessment for the Financial Assistance Scheme

supplemented by a website and mobile phones. This combination of approaches should allow most people with a disability to access and benefit from PPF services.

Gender and Transgender Equality

55. The DWP has not identified a detrimental impact upon gender or transgender equality as a consequence of the Board of the PPF becoming the FAS scheme manager. The DWP also cannot foresee any issues of equality arising following the transfer of assets when the PPF takes over all payments to members.
56. There are facilities for recording a change of gender both before and after assistance is put into payment. If a person has not formally registered their change of gender but wishes to be known by a different name, this can be, and will continue to be, accepted by the FAS administrators.

Race Equality

57. The DWP has not identified a detrimental impact upon race equality following the Board of the PPF becoming the FAS scheme manager. The DWP also cannot foresee any issues of equality arising following the transfer of assets when the PPF takes over all payments to members.
58. The translation of written communications into English and vice versa will continue to be available for FAS members. Leaflets will be provided in languages other than English, when requested. The PPF's commercial provider also has a language facility for incoming calls and will answer all calls to the FAS in the future.

Age Equality

59. To begin with the people most likely to contact the FAS will be those close to their normal retirement age. The Government accepts that this age group may not be as comfortable using information technology as younger people. Therefore, while the Board of the PPF has extended the current PPF website to incorporate the FAS, it will also continue the current practice of providing information in more traditional formats, such as printed leaflets. It will, in addition, provide leaflets in large print upon request.
60. Furthermore, the majority of scheme members who will come into the FAS for the first time following the transfer of assets are likely to be pensioner members who are currently receiving a pension which is more than the minimum level paid by the FAS. Many of these members will have been receiving a pension for some years and would have had minimal contact with the scheme trustees or the DWP. The PPF is currently developing a communication strategy aimed at this group of customers who are new to the FAS.

Monitoring and evaluation

61. The DWP's policy intention is to ensure that:
 - all qualifying members of qualifying pension schemes receive in total 90 per cent of their accrued pension, as at the date their scheme began to wind-up, subject to a maximum cap on payments;
 - where a qualifying member could have expected their pension scheme to provide for a widow, widower or surviving civil partner or partner or children, the FAS will also make provision for such a payment; and
 - payments based on post-April 1997 pension accruals will be partially protected against inflation.
62. The Board of the PPF will monitor its service to FAS customers, with special reference to those members who are disabled or members of ethnic minorities. This monitoring will involve annual Stakeholder Perception Audits that quantify and qualitatively measure how well the PPF is communicating with its FAS members.
63. The PPF is committed to providing facilities suitable for people with disabilities. As part of this commitment the PPF website has been built to internationally recognised accessible website guidelines produced by the World Wide Web Consortium.
64. A review of this assessment will be carried out in two years to ensure that elimination of discrimination and promotion of equal opportunities is continuing.

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