

THE GOVERNMENT'S RESPONSE TO THE PARLIAMENTARY OMBUDSMAN'S REPORT

The Government's denial of any responsibility for the injustices outlined in the Parliamentary Ombudsman's report is not sustainable. The Government has tried to give many different reasons for trying to deny its role in this scandal, but the reasons are no valid. It cites the following main factors:

1. **TAXPAYER CAN'T UNDERWRITE PRIVATE SCHEMES:** These were private schemes, so it is nothing to do with the taxpayer and the taxpayer cannot possibly be expected to underwrite the value of private savings.
2. **TRUSTEES, NOT GOVERNMENT, WERE RESPONSIBLE FOR PROTECTING MEMBERS.** The responsibility for protecting members benefits rested with the trustees, advised by professionals, not with the Government
3. **OFFICIAL LEAFLETS WERE ONLY GENERAL GUIDES:** Government leaflets were only meant to be general guides and, as such, were fit for purpose, were not misleading and were accurate and comprehensive, containing clear warnings that they were not a complete statement of the law
4. **COST WOULD BE £15BILLION:** The cost of compensation would be £15bn and this is far too much to expect taxpayers to fund
5. **REPORT DOES NOT ESTABLISH CAUSAL CONNECTION TO THE LOSSES:** The Ombudsman has not established the causal connection between her findings and the losses
6. **COMPLIANCE WITH RECOMMENDATIONS WOULD SET DANGEROUS PRECEDENT:** Complying with this report's recommendations would set a dangerous precedent
7. **THE MFR CHANGE IN 2002 WAS NOT MALADMINISTRATION:** The changes made to the MFR were not maladministrative
8. **FAILING TO WARN ABOUT RISK OF WIND-UP AFTER ACTUARIAL WARNINGS WAS NOT MALADMINISTRATION:** The fact that Government leaflets were not updated after clear warnings from the actuarial profession that members, trustees and employers misunderstood the MFR and the true level of security of their pensions was also not maladministration
9. **LOSSES WERE CAUSED BY SCHEMES FAILING:** The causes of the losses were because the schemes went bust and the Government is not responsible for this
10. **FAS IS AN APPROPRIATE GOVERNMENT RESPONSE:** The fact that this Government has introduced the Financial Assistance Scheme is an appropriate response to these problems and no Government before 1997 did this

These defences are not reasonable.

Why did members lose their pensions in this dreadful way? Why have the effects of these pension losses been so devastating?

In summary, the victims of this situation lost their pensions because government failed to take the risk of wind-up seriously and did not take care of the solvency position of pension funds. The Government established the framework for these schemes, oversaw the funding levels and contributions, but failed to take account of the huge risks that were present in the case of a scheme actually winding-up. Even after it was warned in 1999 that there was a significant risk to members' benefits, it still failed to take this into account in its decisions and public information guides. At the same time, Government led the public to believe that

these schemes were totally safe and protected by law. UK pension policy is predicated on a very low state pension (just about the lowest in the developed world) being compensated by generous private pensions – particularly final salary occupational schemes. Furthermore, UK Governments have encouraged citizens to privatize part of their state pension rights by ‘contracting out’ of the state scheme and putting their money in employer and private pensions. If there had not been such strong company pension schemes (which effectively took on some of the social welfare role which state pensions fulfill in most other countries) then the UK government would not be able to continue paying such low state pensions and the longer term fiscal costs of pension provision would rise. After the Maxwell scandal, the Government needed to reassure the public that occupational pensions were safe, in order to prevent a mass exodus from company pension provision, which, in turn, could have had damaging implications for public spending. This led to the 1995 Pensions Act, which was an attempt to put protection in place, which would reassure the public that these pension schemes were safe and that the problems experienced by the 32,000 Maxwell pension scheme members would not be repeated. Unfortunately, the measures of the 1995 Pensions Act have actually led to a position where between 85,000 and 125,000 people have lost some or all of their occupational pension and whereas, in the case of Maxwell, the members’ pensions were eventually mostly restored, these recent victims are receiving no such assurances. The Government has now put in a Pension Protection Fund, but this only started in 2005 and is too late for the people who have complained to the Parliamentary Ombudsman. They are being left out, even though those covered by the PPF were warned that this would be brought in from 2005, whereas those whose schemes failed after 1997 were never warned of any risk at all.

What are the main reasons for this debacle? Some of the losses are due to rising annuity rates, falling investment returns and poor actuarial forecasts. The main reasons for the losses, and for the other injustices, however, are Government’s responsibility and can be listed as follows:

1. Reassurances after Maxwell led members to believe their pensions would be safe, whatever happened to their employer. They were told that there would be a ‘Minimum funding requirement’ (MFR) to ensure adequate funding, a regulator and member nominated trustees to help protect members’ interests and a priority order to ensure a fair division of assets on wind up. These protections did not work!
2. The MFR was only designed to give workers and deferred members a 50/50 chance of getting their full pensions, but this was decided behind closed doors and not explained to the public. Over time, however, the MFR was weakened twice, which reduced security for members’ pensions on wind-up even further.
3. Government oversight of the system was negligent, as it failed to recognize the risks of wind-up, nor the radical reduction in security provided by the MFR over time.
4. The Regulator (OPRA) was ineffectual and was only able to ensure that pension funds had enough money to meet the MFR, but, as discussed above, this MFR was totally inadequate as a measure of security for schemes which wound up.
5. Member nominated trustees – often union shop stewards – were not experts in pension matters and the basic information which they received from both OPRA and the Government was incomplete or inaccurate and did not explain the risks of wind-up.
6. The MFR was also the only protective measure for members of schemes where a solvent and wealthy employer just decided to wind up the scheme. This employer only had to put in enough to meet the MFR, which was far too little to secure members’ full pensions on wind-up, but the law allowed them to do this and members were powerless to force the employer to put in more.

7. Even members contracted out state pension rights were only protected by the increasingly inadequate MFR, which meant that they could also lose their national insurance pensions as well. Before 1997, the state would reinstate such pensions back into the National Insurance scheme. After 1997, if there was not enough money to secure these 'Guaranteed Minimum Pensions' then members lost their state rights too. They would, therefore, have been far better not being contracted out, or not ever contributing to their company scheme at all, yet they were continually assured these schemes were actually safe!
8. The priority order introduced by the 1995 Pensions Act has over-ridden trustee discretion and scheme rules and led to members with long service losing pensions that trustees would have been able to grant them before the legal interference
9. Members were forced to rely on only one source of pension income, because Inland Revenue rules would not allow more than one pension.
10. Members were denied an informed choice, since Government encouraged them to join, explained the benefits, but not the risks they faced. Thus, Government's idea of informed choice amounted to officials deciding which information people should be given!
11. In 1997, government removed dividend tax relief from pension funds, thus reducing their income stream and leaving them less well funded. Government claims that this was offset by lower corporation tax, but such tax cuts do not put money into pension funds.
12. The Inland Revenue decided to tax pension fund surpluses, which discouraged companies from building up extra reserves in 'good times' in order to have money to help support schemes through times of market turmoil.
13. Government failed to check what was happening in the bulk annuity market and the impact of the soaring cost of these annuities on security for members' benefits, particularly as there was only one provider (sometimes two) in the market
14. Delays to scheme wind-ups have caused extra expenses and poorer pensions being secured over time as bulk annuity rates rose. The cumbersome process of agreeing GMP rights and Government computer delays have contributed to these delays.
15. Some employers took advantage of the lax rules, which allowed them to wind-up pension schemes either by venture capitalists restructuring corporations and jettisoning their pension liabilities, or by engineering insolvency events, which left members' pensions in jeopardy without warning.

1. These were private schemes, and taxpayers cannot underwrite them.

Comment: They were no longer private schemes after 1997 in particular. This is because the law interfered with the operation of these arrangements to such an extent that they took on an official endorsement of safety. The fact that these were employer schemes would not have led members to feel safe if the Government had not told them they were. But Government introduced the priority order which over-rode trustee discretion and scheme rules, the MFR which government scheme funding, mandatory limited price indexation, protection for Guaranteed Minimum Pensions only via the MFR and so on. Of course members knew their scheme was run by their employer and that is why members were concerned, especially if they knew their employer was weak. That is why they read the official materials and tried to check out if their pensions were really safe, even if the employer failed. But the Government said there would be enough money to pay their

promised pensions whatever happened to their employer. Government leaflets assured them that their pensions were protected by a number of laws, that the assets of the scheme were separate from their employer and that the Regulator would also protect them. It was Government which endorsed the employer pensions promise by not mentioning any risk. If Government had told members their pensions were only safe if the employer remained in business and did not wind-up the scheme, then they could have considered what they wanted to do, especially if they knew the employer was weak. It was the fact that all the official material failed to mention this point, that meant members did not consider their accrued rights to be dependent on the employer at all. They would obviously know that future pension accruals would cease if the employer was no longer there, but had no idea they could lose their past pension rights. That is a point which the Government just does not seem to have understood yet. It endorsed the employer pension promise. It deliberately led members to believe their pensions were safe, when they were not.

2. Trustees were responsible for protecting members, not the Government:

Stephen Timms: (DWP written statement 15th March 2006) 'In the Government's view, the responsibility for the schemes rested with the companies whose schemes have, or are being, wound up and with the trustees who, with the benefit of professional advice, were responsible for protecting members' interests'.

Comment: This may be Government's view, but it is not the Parliamentary Ombudsman's view! The companies and trustees were complying with the law, but members still lost their pensions, despite the fact that Government assured the public that this law would protect members. Indeed, Jeff Rooker, Pensions Minister in 2000, told Parliament 'we are aware of the importance of protecting members' rights. If we cannot do that, they have no-one else to look to' and the DWPs own leaflets said 'OPRA can act quickly to protect your interests'. So even the Government itself, at the time, acknowledged that it and its agencies were responsible for protecting members. It cannot now look back a few years later and try to blame employers and trustees. Furthermore, in 2000, the Actuarial Profession report to the Government highlighted that people were unaware the MFR was not a guarantee of full pensions on wind-up and recommended that Government must make sure that these risks are disclosed, it said 'we have particular concern that this is not understood by scheme members, trustees and employers'. So, again, at the time the Government was warned that trustees and employers, as well as scheme members, did not realize the risks to pensions on scheme wind-up. Any responsible Government would have been alerted by this to change its public literature and general guides, but the DWP failed to consider the implications for its own materials. This is negligent and is clearly maladministration.

3. The leaflets were only general guides and were fit for purpose:

Stephen Timms: 'These (official leaflets) were only general guides and fit for purpose' 'They were not incomplete or misleading'.

Comment: These statements are so obviously incorrect, it is difficult to know how to respond to this. The Ombudsman's report makes clear that Government failed to warn members of the risks of wind-up and this misled them into believing they were safe. A general guide cannot be considered complete if it does not mention the biggest risk people faced. All that would have been required would be a short sentence such as 'you may not get your full pension if your scheme winds-up'. There were sections in these general guides headed 'how do I know my money is safe?' and 'what if things go wrong?' and 'what else do I

need to think about?’ Any of these sections could have mentioned the risk of wind-up, but they did not. This is obviously misleading to anyone reading the leaflets, because they will have been given the impression that there was no risk to their pension and that they did not need to ask about wind-up, even though this was actually THE most important question they should have been told to ask. As Alistair Darling said in 2000 ‘The public rely on Government information and they are entitled to be reassured that leaflets are accurate and comprehensive’. In 2002, he said ‘The Department is actively promoting a pension education publicity campaign that is supported by a range of simple, *impartial* guides’. If these materials were truly impartial, they would have had to mention the biggest risk that members faced, but they did not. Essentially, while members themselves were putting their money in, week after week, thinking they were safe, Government Ministers and officials knew that the pensions were not actually safe, but decided to keep them in the dark. Even after being warned and consulting about disclosing these risks to members, Government decided to just let members keep innocently contributing to their schemes, relying on what they thought would be a guaranteed pension and this prevented them from having any chance to protect themselves. Then, when the members lose out, those Ministers and officials deny any culpability.

4. The cost would be £15billion:

The Prime Minister says we can't compensate because it would cost £15billion and that is just too much money. How can we pay this kind of sum?

Comment: Replacing the lost pensions would cost no more than £100-£150million a year, index-linked, for 40 or 50 years, and does not require billions of pounds. Last year alone, officials overpaid £130m in pension credit and this sum was easily absorbed in the DWP budget. £100-£150million a year is easily affordable, but the political will is not yet there. The £15billion number is a scare tactic on the part of the DWP, to try to make people believe we cannot do this. Margaret Hodge was even quoted as saying this compensation would be 6p on income tax. That is complete nonsense, since it would mean a cost of £15billion a year! In any event, these are pensions, and do not need to be paid for at once, but budgeted for over time. Furthermore, the DWP has not even been able to substantiate its figure. It has made two attempts at producing some figures, neither of which has actually managed to justify this so-called cost. If the DWP had really worked out the cost of £15billion, it would have been able to justify that by now, so the assumption must be that it has thought of a number and is now trying to find a way to justify it after the event!

5. The Report did not establish the causal connection with these losses:

John Hutton: The Ombudsman has not established the causal connection between the losses and the actions criticized in the Parliamentary Report. What is that connection?

Stephen Timms: (DWP written statement 15th March 2006) The Report does not make a sustainable case that maladministration occurred or that these losses were the responsibility of Government.'

Comment: The Report clearly establishes the connection between the injustice and the Government's actions. The Government's maladministration, in combination with policy decisions and careless oversight of occupational pensions which was more concerned with employers than members, caused these people to lose their pensions with no warning. The Ombudsman explains that the financial losses were contributed to by the maladministration she has found, since people could have mitigated their losses if they had known the risks

they faced. There are many ways in which they could have tried to mitigate their potential losses, but they were denied the chance to do so. They could have retired at their first opportunity, could have invested in ISA's instead of AVCs, taken out separate life insurance, moved employer, transferred money out, not transferred money in, cut down spending elsewhere to build up a safety net, ensured that their employer funded the scheme better, and so on. The other reasons for the financial losses sustained, besides the maladministration itself, were also Government responsibility, so the Ombudsman has clearly established the causal connection. Some examples of policy decisions which contributed to the losses are:

designing the MFR to only provide 50/50 protection for non-pensioners,
failing to take account of annuity rates,
allowing employers to take contribution holidays,
removing ACT relief,
taxing surpluses,
preventing diversification of pension sources by only allowing people one pension
encouraging people to join their employers schemes (this is effectively individual advice)
issuing information which was said to be impartial but failed to tell the whole story.

After 1997, the public was assured that legislation had been put in place to protect pension funds by law, that proper funding standards would apply so that schemes would be funded to a level sufficient to pay pensions in full, whatever happened to the employer. After 1997, the public was led to believe that accrued pension rights were properly protected. They were not told that the taxpayer underwrote this, they were told that the Government had made sure the system was safe and that employer schemes would have enough money to pay the promised pensions. This is how it was explained to the public, so they had no idea that they needed to think about risk and no-one ever mentioned the problems of the priority order on wind-up. Official materials and statements consistently failed to mention the possibility of scheme wind-up and this lulled members into a false sense of security. The Parliamentary Ombudsman has shown that all the injustices apart from the financial losses are the direct result of maladministration. The sense of outrage, the lack of opportunity to make an informed choice, the distress, the damage to people's health, all of these were the result of the fact that Government statements and leaflets misled the public into believing that final salary schemes were safe. They believed their retirement was secure, they believed nothing could happen to their pension and they were relying totally, in many cases, on their company pension for a decent retirement. The shock and distress that was caused to these people, when they discovered that they had actually lost the pensions they were led to believe were completely safe, is difficult to imagine and is profound. The reason they had no idea that this could happen, and therefore why the shock, distress and outrage was so great, was because they had trusted Government's words which had assured them they were safe. These words were either trusted directly – because members themselves read the official materials and were reassured – or indirectly – because trustees had been told this and believed it. The trustees in question would be the member nominated trustees, who were often union shop stewards, who had read the Government materials and booklets and believed what they read. They had also often relied on the 1997 OPRA booklet which was incorrect.

6. This would set a dangerous precedent:

If we compensate these people, it would set a dangerous precedent, because the taxpayer surely can't underwrite all private pension schemes. Lord Howarth said: 'No-one who

thought seriously and responsibly about occupational pensions could ever suppose that the Government would underwrite whatever pension promises the private sector might make’.

Comment: Complying with the Ombudsman’s recommendations would not set a dangerous precedent. It is NOT complying with her recommendations that would set the dangerous precedent. The Ombudsman has tried to explain to the Government that it has behaved inappropriately, that it needs to apologise and make full redress for this, but so far Ministers seem incapable of understanding what she is saying or what they did wrong! Government told the public that these pensions were safe. Government effectively led the public to believe these promises were underwritten, although it did not actually say by whom. If Government tells citizens that their pensions are protected and separate from their employer, these people will believe that and will not look for any small print lying behind the statements, or hidden meanings. Government failed to tell the public it needed to have any concerns about who was doing the underwriting of their pensions, because it never mentioned the risk of wind-up. The Government’s denial is symptomatic of the thinking that has pervaded the DWP and seems to have prevented it from recognizing what it has actually done. This is deeply worrying, because if the DWP really does not understand how members of the public think, then it could repeat these mistakes and cause another dreadful scandal in future. It is just not reasonable to expect the public to recognize that taxpayers wouldn’t underwrite their pension promises. The Ombudsman has pointed this out clearly, and yet the Department just doesn’t seem to understand what she is saying. It led members to believe that there would be enough money in the schemes because the law had introduced proper funding standards to ensure pensions would be paid ‘whatever happened to the employer’ and that they would be compensated if there was fraud. The people who read this information just believed it. They would not think to themselves, ‘well surely the taxpayer can’t underwrite the pension promises’. They would think, ‘if the Government tells me that my pension is safe because the law has been changed to make sure it is, then I feel reassured and know that I can be relaxed’. It was the Government itself that should have realized from 1997 onwards, if it was telling people that their pensions were safe, if it was putting out ‘impartial’ information explaining their pensions to them, if it was encouraging them to join occupational schemes, if it was assuring them that their pensions did not depend on their employer and would have sufficient assets to pay accrued pensions, whatever happened to the employer, then that was implicitly telling members that their pensions were effectively underwritten by the law (it could not expect members to think like this, it is *Government* that should have realized it and more carefully thought through the implications of what it was doing at the time!). It is Government’s failure to realize what it has done here that is so deeply disturbing. Their leaflets and statements were misleading and inaccurate and the public relied on their words and were misled. This (and decisions made by Government to weaken funding standards and allow employers to fund to levels which did not cover annuity buyout etc) led many of them to lose their pensions with no warning and also led to all the other injustices which the Parliamentary Ombudsman report has identified, such as the devastating sense of shock, outrage, distress and betrayal when these people realised that they had never been told the truth, plus the uncertainty and stress that has blighted their lives and their health. It is worth noting that the Government has not once alluded to these other injustices at all.

7. Changes to the MFR were not maladministrative:

John Hutton: The March 2002 adjustments to the MFR were made on the principle of maintaining its 1997 level. This was taken on the basis of strong actuarial advice and the

GAD told the Parliamentary Ombudsman inquiry that it was taken on very strong advice. Therefore this cannot have been maladministration.

Comment: This ex-post justification does not invalidate the Parliamentary Ombudsman's finding of maladministration. The report shows that the decision to weaken the MFR in 2002 was taken on the basis of a letter and an email and there was not any other evidence of justification for the decision. There was no consideration of the impact of the decision to weaken the MFR on the security of members' benefits in schemes which wound-up, particularly with a solvent employer, but also with insolvent employers. No consideration seems to have been given to what was happening to bulk annuity rates and the resulting reduction in pensions for non-pensioners as a result of the priority order. Indeed, one also has to question whether it was appropriate for the MFR level to be returned to the position of the 1997 50/50 chance. The government has also failed to mention that it ignored strong actuarial advice, twice, that the MFR needed to be strengthened and only followed the advice to weaken it (apparently due to fears that the strengthening of MFR assumptions would lead to calls for higher spending on contracting out rebates, which the Treasury would not agree to).

8. Government's failure to change its leaflets was not maladministration:

John Hutton: The Government's failure to revise its own official leaflets after 1999, when the Actuarial Profession suggested that the public did not know their pensions were not fully protected by the MFR, is not maladministration, because when Government consulted on the profession's recommendations about disclosure, none of the responses to the consultation suggested that the leaflets should be revised. The Ombudsman cannot accuse us of doing something that nobody suggested we should do!

Comment: The consultation on disclosure of the risks to members' pensions was conducted with professionals in the pensions industry, not with groups of members! These professionals had probably never even seen the Government's own general information pension guides, but, even if they had, why would they think it was up to them to tell the Government how to run its own information materials. It should have been up to the DSS itself to realize that it needed to make sure its public information was accurate and impartial, by alerting members to the possible huge risk they faced. The fact that the Government did not do so is one of the core issues that the Ombudsman's report highlights as having caused the financial losses and all the other injustices. The Government cannot just expect to be told what to do by others – it is surely up to Departments themselves to oversee their own materials, but in this case there was a clear failure.

9. The reasons for the losses are that the schemes collapsed:

Prime Minister's reply in Commons PMQs 15th March 2006: 'we are being asked to give on behalf of the taxpayer a £15 billion commitment. We simply cannot do that in circumstances where the reason for the loss is the collapse of those pension schemes themselves'

Comment: The reason for the loss is not the collapse of the pension schemes themselves, but it is because, when the schemes collapsed, they did not have sufficient assets to pay the members' pensions, even though members were led to believe that they would. If the schemes had been funded for wind-up, these losses would not have devastated people's lives in the way they have. Of course, when the schemes failed, this also caused the other

injustices which the Ombudsman says Government is directly responsible for, which are the suffering, distress and loss of health that losing their pensions has caused to so many thousands of people. They were so shocked and affected because they had no idea this could happen. They had no idea this could happen because they had relied on the official reassurances that their money was safe. They often had their whole life savings in these schemes and were relying totally on the company pension to support them in retirement. The system effectively forced them to 'bet' their retirement income on one share – that of their employer, which is a horrendously imprudent way to behave. However, that was the result of the system that Government had set up and which it oversaw so carelessly. As the Parliamentary Ombudsman's report clearly shows, the wind-up of the scheme is only the 'trigger' for the losses. The actual causes of the losses are many factors, which are effectively Government responsibility. Government misled the public into believing that final salary schemes were safe after the Maxwell scandal, it told the public that the new legislation would protect pensions and that their accrued rights were secure. This was not true, but the members did not know this. In reality, the measures put in after Maxwell actually made things worse for many of these schemes.

Firstly, the Minimum Funding Requirement was only originally designed to give a 50/50 chance of workers getting their pensions – but members were told that their pensions were protected 'whatever happened to the employer'.

Secondly, the new legal priority order, which prescribed how assets had to be divided on wind-up, over-rode trustee discretion and Scheme rules, and required all assets to be used first to give pensioners their full index-linked annuities, without leaving any provision for helping long-serving non-pensioners who could lose their entire pension if there were no assets left. This has resulted in many members receiving no pension, whereas under the previous regime before 1997, trustees would have ensured a fairer division of assets.

Thirdly, the Government weakened the MFR, without considering the impact this decision would have on members of schemes which wound up. There is no evidence that the Government considered the changes in bulk annuity rates that had occurred and the impact this would have on the pensions of members of schemes where a solvent employer chose to wind the scheme up and only had to put in enough to meet 100% of MFR. Therefore, the decision to weaken the MFR was maladministration, because the Ombudsman found no evidence that the Government had considered all the relevant matters and that, by not considering these, it had reduced the security of members' pensions.

Fourthly, the Government's official materials did not warn members that there was any risk to their pensions on wind-up, so they were not alerted to any need to inquire about the security of their scheme or their employer, even in general 'impartial' guides which were supposed to tell them important questions to ask and explain the benefits and risks (but which pointedly failed to mention any risks). If members had been alerted to this risk, they may have been able to protect themselves. Some could have retired, but agreed to stay on and, as a result, lost the pensions that would otherwise have been protected as first priority on wind-up. Some could have transferred out, and/or moved to another employer. People could have taken out their own life insurance, if they knew they might not be covered by their employer's scheme in the worst case scenario. The Government denied all these members the chance of making an informed decision about the planning of their retirement and led them to believe that their pensions were safe and could be depended on – even if the scheme no longer carried on. The official information was misleading and people have lost out as a result of trusting what they read.

9. The FAS is an adequate response to the problem and just needs to be reviewed:

This Government is the first to put in a financial assistance scheme, and the previous Government did nothing before 1997 so Labour can be proud of this! Schemes did not suddenly start collapsing in 1997.

Comment: This point is not valid at all. It is only since 1997 and Labour being in power that these kind of horror stories have been so prevalent. Before 1997, the environment for occupational pensions was different and these injustices would have been far less likely to occur. It is the fact that after Maxwell, the Government explicitly told the public that pensions would be properly protected in future, both by funding standards and a Regulator, which has meant that the Government must now take responsibility for the fact that these assurances were false. This situation did not prevail before 1997. There are several reasons for this:

Before 1997, no-one had been categorically assured by Government that their pensions would be properly protected by law, whatever happened to the employer

Before 1997, if a scheme wound up and members were at risk of losing their 'Guaranteed Minimum Pension' (GMP) which was supposed to replace their state earnings related pension from National Insurance, they would be taken back into the National Insurance scheme and the State would pay their GMP, so people could not lose their GMP in the way that has happened since 1997. (Deemed buyback has not worked well, is too difficult and takes away AVCs too).

Before 1997, there was no priority order set by law, so that trustees had discretion over how to divide up the assets on wind-up and would not have been likely to provide top directors with full index-linked pensions for life, while leaving members in their 60's with nothing.

Since 1997, annuity rates have soared, so that it has become increasingly expensive to actually buy out the pensions, which has left far less for all non-pensioners.

Since 1997, Government introduced the explicit policy aim of encouraging workers to join their occupational pension scheme.

Since 1997, Government took it upon itself to issue information leaflets to help the public understand pensions and explain the benefits and risks they faced. Having taken upon itself to do this, it surely was incumbent upon Government to make sure that its leaflets were accurate and comprehensive.

Q: Baroness Hollis: 'Government should not take responsibility for that over which they did not have control'.

A: Government did have control over this. It was Government that set the funding standards, it was Government that encouraged people to join the schemes or stay in the schemes, it was Government that decided to weaken the MFR back to only the 50/50 chance level, it was Government that weakened the MFR even though it was warned by the actuaries that this level was much too weak to cover promised pensions on wind-up, it was Government that allowed solvent employers to wind-up their schemes and only have to put in enough to make up to 100% MFR (which was totally inadequate to pay full pensions), it was Government that did not allow people to have any other pension once they were in an employer scheme, so they could not diversify their retirement assets, it was Government that decided that Guaranteed Minimum Pensions would only be protected by the MFR and would not be automatically reinstated in the state pension system on wind-up. All these Government decisions contributed to the losses which have been sustained and the other injustices suffered.

