

ABAP

Caring for BA pensionable people today and tomorrow

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Newsbrief No.89

12th October 2011

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1. **2011 AGM.** 350 Members were present. 1002 proxies were sent in.

Resolution 1. i) To receive the Chairman's Report

2011 AGM Chairmans Report. (Dayne Markham)

The Committee welcomes you to the 2011 AGM.

We recognise that there have been many ABAP calls on your time this year.

The strength of the association is shown by the fact that so many of you are prepared to keep on turning out. You are greatly appreciated.

REVUE OF THE ABAP YEAR 2010/2011

This year has been dominated by the RPI/CPI situation affecting the pensions of all members of both schemes. There are difficult facts in this history.

The move by HM Govt. from RPI as the Cost of Living index occurred six days before the BA Pension Scheme recovery based on RPI was ratified by the Chairman of Trustees and the Boards of both APS & NAPS.

Does anyone believe that those signing thought this Plan is a threat to the security of our pensions? Yet the payment of RPI is now declared a threat to scheme security by Chairman of Trustees.

This despite the RPI cost to both schemes until the triennial valuation in 2012 being far less than the recently increased benefits awarded to sections of NAPS.

When the Trustees decided to implement CPI there was no move to ascertain that this Index was in fact appropriate for the BA Schemes as defined in their Trust Deeds.

The consequences of these contradictory facts are fuelling the pensioners' wide campaign for a return to RPI at least until the latest 2012 scheme valuation results. ABAP is fully supporting Capt Mike Post with the steps in this campaign.

But this is not all the Association year by any means.

October 2010. Sandra Sellers was elected an APS Member Nominated Trustee bringing up to FIVE PMNTS on the APS board all supported by ABAP. (We note that NAPS is also due for another NAPS MNT election soon.)

The VPO complaint had not been resolved by the BA pensions internal dispute resolution procedure and was lodged with the Pensions Ombudsman for resolution, although it was known that it would take some time, progress was nonetheless expected.

The CPI was revealed as 1.5% lower than RPI for 2011. The Annual Review Order was explained (but not really accepted).

ABAP members were encouraged to write to their MP on the inadequacies of CPI reducing their pensions.

Pensions minister Mr Webb was sent an ABAP Members Postcard calling for RPI for private pension schemes.

January 2011. HM Govt, following the representation of many pensioners - not least BA Pensioners - recommended that CPI should be the minimum annual increase if the Trustees of a scheme had Deed authority to change the increase. It was clear to everyone including the Chancellor that the change of COL index for private schemes had no bearing on reducing the Govt spending deficit.

February 2011. APS Trustees voted to take the resolution of the RPI/CPI issue before a judge if agreement could not be reached. ABAP had been aware that APS trustees were having difficulty agreeing on CPI/RPI. A Members Meeting was initiated under Rule 25 requiring 100 signatures. 2250 pensioners responded to the call.

March 25th 2011. Captain Mike Post resigned as an APS Trustee over the handling of the annual increase in pensions for 2011/2012. CPI was confirmed for APS on 26th March but with no mention of the increase index for NAPS at the same time.

Members were invited to write to the Chairman of Trustees for assurance that a CPI based increase was really in the best interests of BA pensioners.

It was noted that the Royal Society of Statisticians & the Bank of England do not consider CPI to be a suitable COL index for pensions.

April 2011. Captain Cliff Pocock resigned as an APS Trustee in order to be able to speak out over the RPI/CPI issue.

Graham Tomlin resigned as an APS Trustee in order to carry on the campaign for the restoration of RPI. Three Trustees resigning is itself historic but all for the same reason is monumental for pensioner trustees.

ABAP started a rapid contact scheme to increase our reaction speed.

It became clear that the Members Meeting called would have to be for separate schemes because of the numbers involved could not be held under one roof at a convenient location.

The savings to BA over the period of the Pension Recovery Plan by using CPI are announced by BA as £700m(both schemes together) as the schemes' deficit is reduced by not paying out

RPI. This is how money still legally due to pensioners instead benefits BA as they do not have to pay that amount now with the deficit recovery shortened.

May 2011. Captain Mike Post was given full legal support by ABAP to obtain top legal advice over RPI/CPI situation.

June 2011. In consequence of the 3 Trustee resignations an APS Pensioner MNT elections called. ABAP to field the strongest possible candidates for restoration of RPI.

July 2011. The APS Ascot meeting was attended by 1700 APS pensioners backed up by 800+ proxies with unanimous votes for an immediate return to RPI and a call for a postal ballot on all APS Members on the Meeting's resolution to that effect.

Although the Trustees are not bound by this ballot they are obliged to take note of it.

Although ABAP had initially called for a combined members meeting for both schemes it proved physically impossible to find a suitable venue.

ABAP also advised the pensioner MNTs of the continued position of widows/ers in both schemes being unable to vote at MNT elections was still outstanding, unfair & untenable.

It emerged that the P/Ombudsman was stalled with the VPO complaint as he had no information on the calculations used for the VPO in 1973 & 1984. ABAP was able to assist directly. ABAP has since clarified with our own actuary that the VPO calculations used by the scheme actuary are the property of the Trustees. Therefore the Pensioner Trustees have been informed of this breakthrough whereas before we had been blocked by the lack of VPO information in the Trustee minutes the way is now open for financial facts to be used in future trustee discussions on the VPO.

The MNT election result was an overwhelming victory for Cliff Pocock. Graham Tomlin & Paul Douglas - all pledged for the return of RPI.

Now All BA pensioners await the deliberations of the new APS board.

August 2011. The result of Mike Post's 3 Question ballot was overwhelming support for the propositions, with a higher ballot percentage than a UK general Election giving him over well 90% support. The Trustees are obliged to note this result.

Members were advised to request their pension difference from RPI to CPI since April be paid to them as CPI was used without its suitability for our scheme being properly checked before it was introduced. This is ongoing with BA pensions doing the necessary individual calculations of money owed.

We have all been advised that it will take about 3 months with a test case in the small claims court.

Sept 2011. The Ascot Meeting for NAPS pensioners went ahead as requested. The scale of this meeting was smaller than the APS meeting not least because BA pensions inexplicably did not inform all scheme members by post as with APS. It is clear ABAP will have to energise NAPS members, the first move must be for NAPS members to join ABAP. Even at this stage many at Ascot had not heard of ABAP even though the meetings of both schemes were called through ABAP. There will be a report on the NAPS Ascot meeting immediately after I have finished this report. (I was there but, of course, not allowed in!)

ABAP has made progress with the Absent Friends Column and will be adding a consecutive item on every newsbrief from now on. This is a poor substitute for our own modest plan for a replacement Touchdown. We will review the idea again later.

Your committee has worked hard & well. I thank them all for their contribution. The website under David Waddington has been instrumental in accessing many new members for ABAP by joining on line. More than at any time since the Merger action 11 years ago.

Indeed I also thank you the membership for unwavering support so well demonstrated by the response to the Fighting Fund in cash & pledges pending any court action.

Although as ever there are steps of progress on many issues during the year, as Chairman I am conscious that I cannot report an out right complete result on any one issue this year.

Thank you

The Chairmans Report was **Approved** without a vote.

Resolution 2. To receive the Treasurers Report.

Jack Shill reviewed the years accounts and resources.

The Treasurers Report was **Approved** without a vote.

Resolution 3. The Election of the Committee 2011/2012.

The Committee was **Re-elected** en bloc without a vote.

Resolution 4. To Approve the level of Subscription 2011/2012.

The Level of Subscription was **Approved Unchanged** for 2011/2012.

Resolution 5. To receive a progress report from the Occupational Pensioners Association.

Ray Smith gave a report of the current OPA activities.

The OPA report was **Approved**.

Resolution 6. To approve the annual subscription to the OPA.

The annual subscription to the OPA was **Approved** unchanged.

Resolution 7. Any Other Business, as raised from the floor or written in.

Progress on Staff Travel ST09. Chairman advised ABAP still looking for leverage. Meanwhile an answer to his letter to BA CEO Mr Williams regarding the 2014 Cut Off remains outstanding from May 2011, despite the efforts of BA's Mr Alun Buchanan.

VPO. Chairman was advised that direct contact with the Ombudsman could be available via the complainant if required.

RPI/CPI. Many members called for pressure on the Trustees to go to court on this matter. APS MNT Stuart Scott repeated the Trustees view that the result

should be awaited of the current court action by the Police Federation & the Civil Service Union. Chairman advised that other pensioner moves are pending.

Widow/ers Trustee Vote. This was raised by several ladies present requesting action from the Trustees.

The ABAP Membership Card. Capt. Parry asked why the new format was not laminated in the same way as credit cards. Chairman advised that cost was the issue for annual replacement. Had it been an ABAP credit card this would have been different. Topics were then raised, although interesting, that were outside the remit of ABAP. The Meeting closed at 1550hrs.

2. NAPS Ascot Meeting 13th September. (Gil Carswell)

The event was organised on ABAP's behalf by BA Pensions. The venue having been chosen and agreed upon as a result of the experience of the APS meetings held at Ascot in July.

Initially it was felt that, like APS, we would require to hold two meetings. Subsequently as a result of lower than forecast requests by members for tickets only one event was needed. Even this was poorly subscribed compared with the APS meetings. Active members unlike pensioners who were written to individually by BA Pensions had to rely on the internal BA Intranet site to advise them of the date and venue. Some actives and their respective TU representatives have expressed their dissatisfaction at this sole method of communication.

That said the response from pensioners was also poor. With those in pension not far short of the APS population in overall numbers it remains a mystery as to why the pensioner turnout fell well below expectations. We shall be better able to gauge the strength of feelings of the actives and pensioners in the NAPS scheme when ALL of them are balloted in the next few weeks. Details to follow later in this report.

Of the 240 who attended the meeting, it is gauged that approx. 90% were pensioners. A further 973 proxies were received. Here the majority did come from the active membership after some vigorous lobbying by TU representatives.

As agreed with ABAP the meeting was chaired by Paul Spencer chairman of BA Pensions. He opened the meeting by introducing to the audience his top table colleagues Anthony Arter of Eversheds the schemes external lawyers and James Wintle a senior actuary with Towers Watson, who are also advisers to the scheme. Mr Spencer explained the relationship with the advisers and how the trustees were legally obliged to listen to their advice before decisions were taken.

The chairman went on to explain that for many years, the pensions for most members of NAPS have increased in line with the review orders, which were linked to RPI, subject to a cap of 5% each year. The trustees, had expected that link to continue. NAPS was established in 1984 and the NAPS rules have always stated that pension increases are based on the pension increase review orders produced by the government each year. Last summer, the government announced that they would in future use the Consumer Price Index (CPI), rather than the Retail Price Index (RPI), for those review orders.

The trustees took legal advice on the implications from Anthony and his team and also consulted a leading, if not the leading, pensions QC. The conclusion was that future pension increases under the rules of your scheme should continue to be based on the review orders and therefore automatically became linked to CPI. The change to CPI was the result of an action taken by the government, not by your trustees. We do understand why you expected RPI increases to continue and understand why you are concerned by this government's decision to change to CPI linked review orders.

At the APS meeting held in July, I was able to tell the members and pensioners of that trust that the trustees had changed the APS rules to allow the trustees to award higher increases than would result from now CPI-linked review orders. I was also able to say that the APS trustees had resolved to pay RPI-linked annual increases as soon as is believed to be prudent to do so. Whilst it is the case that the objective to restore RPI-linkage is shared by the APS and NAPS trustees, the NAPS trustees do not have a unilateral power of amendment as BA have to agree to amend the rules. Also, the timeframe over which the restoration of RPI annual increases might be achieved will be longer for NAPS than APS. There are a number of reasons for this, but principle among them is the relative funding positions of the schemes. It is worth noting that, even having introduced the facility to award an additional pension increase to that provided in the order, the APS trustees did not believe it was prudent to exercise that ability in April of this year.

What is the funding position of NAPS? The funding position is the ability of the fund's assets to meet the liabilities, which are the pension payments of all the members when they are due. NAPS currently has a significant deficit. The most recent estimate of the funding position, calculated as of 31 March 2011, shows that the scheme has a deficit of over £2 billion. We were pleased with the funding and recovery plan that we negotiated very hard with BA in June 2010, but this did involve a hard negotiation and, as in all negotiations, some elements of compromise between the trustees and BA. The "headline target", the jargon term is, "technical provisions", is set on the basis that the recovery plan of contributions from BA would meet the deficit that has been calculated based on the assumptions agreed by the trustees with BA. Under the terms of the recovery plan, BA is required to make substantial contributions each year until 2026.

These started at £144 million for year ending 31 March 2011 and will gradually increase over the period to 2026. This year BA will pay £164 million, next year £177 million. This year, again as a result of hard negotiation, BA made an extra payment of £105 million to NAPS under the terms of a "cash-sweep arrangement", which kicks in when BA's cash holding as of 31 March exceeded £1.8 billion.

In terms of funding the cost accrual for active members, BA pays £118 million each year. The trustees do recognize the benefits structure of NAPS has been subject to two rounds of benefit changes, the first in 2007 and then again last year. From a funding perspective, these changes have reduced the cost of new pension benefits, which means that more of the money available from BA can be put towards the deficit in respect of past service benefits.

Over time as the scheme matures, we would expect to move to lower risk assets designed to

match the liabilities more closely. Moving to lower risk investments is intended to insulate your scheme to the greatest extent possible from the type of acute downward movements in investment markets that we have all been seeing over the last few years and particularly over the last month. However, this will lead to a lower return on the assets and again a subsequent increase in the funding target. This means that, even when you reach 100% funding on this current valuation basis, we will still not be in a position where the trustees can feel that we can fully secure the ability to pay your pensions in all possible future circumstances. Those circumstances, which include changes to interest or inflation rates and how long people will live, are very difficult to estimate.

We are a very long way off our long-term objective of having a totally secure position for your existing pension rights.

I have asked James to explain this to you in more detail in his presentation.

At the same time as looking at the scheme's assets and liabilities, we have to take into account the strength of our sponsoring company, BA.

As trustees, we have to be realistic about the strength of BA, not just now, but over the next 20, 30, or 40 years as the fund has to pay out your pensions. BA has allowed our advisers, PWC, full access to figures and people in BA. As I am sure you can understand, as a result we, the trustees, have all signed a confidentiality letter with BA, so I am limited in what I can say about some of those issues we negotiated hard on. However, I can remind you of the following information that is in the public domain:

BA is not paying a dividend to shareholders via its new holding company IAG, so one has to be skeptical about those shareholder giving more money back to IAG to pass onto IAG;

BA's credit rating is below investment grade, meaning it is hard and very expensive to raise new debt in these markets;

The aviation industry, and particularly BA's profit generation, is highly cyclical and volatility in the oil price really does compound this;

Economic growth in the core markets on which BA depends is very fragile, BA, like all airlines at present with the high oil price, needs to have fuel-efficient aircraft and BA has a lot of older planes. The market to fund this generation of new planes is fragile, nothing like as available as it has been in the past, and requires a significantly higher element of self-funding than before.

The deficit funding position and the uncertainty surrounding the covenant mean that, even if BA agreed to amend the rules, as APS have done using the unilateral power of amendment, it will be many years before it will be a proper exercise of the trustees' powers to grant an additional increase. Unlike APS, NAPS does not have a unilateral power of amendment and any changes to the scheme do have to be agreed with BA.

When the trustees negotiated the recovery plan with BA in 2010, the trustees of APS and NAPS worked together to maximize the package of contributions, security and protections that we were able to negotiate from BA. In the same way, we hope to work with APS and BA

to agree some principles by which an RPI annual increase might be restored. Both schemes have an objective to get to a position where RPI annual increases can be paid in an environment where the scheme has a strong funding position, supported by low-risk and well-matched investments.

A sub-group of the APS and NAPS trustees has begun work on how this framework would operate in practice, and in due course and when we are ready, we will work with BA to try to reach an agreement on implementing additional increases above CPI when circumstances permit.

I have to say though that, given the relative funding positions, it is almost inevitable that increases above the order, i.e. the CPI, will be paid in the nearer term for APS, whilst for NAPS this is a longer-term proposition. The intention is that, having created a precedent in relation to APS, those underlying principles will also hold for NAPS.

James Wintle then was invited to make his presentation.

The role of scheme actuary is to help the trustees understand the financial position of the scheme. I am appointed by the trustees under the law and have various professional and legal responsibilities to the trustees and to the scheme. I do not have any such responsibilities to BA. To help the trustees understand the financial position, I need to start with the benefits payable under the rules of the scheme. The conclusion from the legal advice is that the government's change to the review orders means that future increases under the scheme are now linked to CPI, rather RPI, so these are the benefits that I need to value.

We have 22 years of data available to compare CPI and RPI. On average, CPI has been lower than RPI by about 0.7% each year. In some years, the gap is bigger or smaller and in six of these 22 years, CPI has actually been higher than RPI. The CPI measure last September, which determined the increase in April this year, was 1.5% lower than RPI and there is a general expectation that the gap might remain quite big for the next few years, although the latest inflation figures show that the current gap has narrowed to 0.6%.

I will update you on the latest funding position of the scheme, but first let me explain what it means when you are told that the scheme has a deficit or a surplus: a scheme has a deficit when its assets are not considered sufficient to cover its liabilities, which are all of the payments it must cover between now and the time when the last member dies, perhaps 70 or more years away. The size of these monthly payments depends on many things, including how many members will still be alive then. We obviously do not know this for sure, so we have to make some assumptions. The more confident we want to be that the money will not run out, the longer we have to assume members will live when estimating each future payment.

Next, we consider how much money we need today to cover all of these forecast future payments as they fall due. The answer depends on how much investment return the scheme can produce before it has to sell assets to pay the benefits. The more the scheme can earn, the less money is needed now. However, the investments that expect to give bigger returns also have more risk of backfiring, so if the trustees want to be confident that they will have enough money to pay the benefits, they need to invest cautiously and assume only modest returns. In 2009, the scheme had a deficit of £2.682 billion, which improved slightly in 2010 to leave a

deficit of £2.651 billion. The figures at 31 March 2011 are not finalized yet, but if we were to continue to allow RPI pension increases, then my estimate is for a lower deficit of £2.405 billion.

This funding position improves if CPI increases are allowed for in the future, although there is a lot of uncertainty about the future gap between CPI and RPI. If we take a prudent view that this gap might only average around 0.5%, then the funding deficit might reduce by around £470 million. If we assume a larger gap, such as 1.0%, then deficit might reduce perhaps by around £1 billion. However, whichever measure of CPI, this will still leave a significant deficit. These results depend on the assumptions that are made about the future and the trustees need to be very careful when they interpret the results of any funding figures. There is a lot of uncertainty and risk associated with them.

Now BA has agreed to meet the 2009 valuation deficit by paying contributions until March 2026. This year BA's contributions will be £164 million and in future years will be increased. Although the trustees believe that this recovery plan was the best that could be negotiated, it still means that NAPS is expected to remain in deficit for many years. As part of the valuation discussions, the trustees secured additional contributions payable when BA's finances improve and some other protections for the scheme.

The next valuation is due in 2012, when the deficit will be reviewed to take account of up-to-date information and the trustees will discuss with BA again how the shortfall can be removed. If the deficit at that valuation requires additional contributions to be paid by BA, these would be paid on top of those already scheduled to be paid. On the other hand, if the deficit were smaller, the trustees would seek to continue with the existing scheduled deficit contributions from BA. This means that they would aim to reach full funding sooner, rather than allow BA to reduce its contributions over the original period of the recovery plan.

This approach is in line with the guidance from the Pensions Regulator.

Another calculation of the liabilities that the trustees consider is known as the "solvency measure." This is an estimate of the costs of paying an insurance company to take full responsibility for paying the benefits. In the 2009 valuation, the solvency level was 46%, or a deficit of some £7.2 billion. This solvency level improved in 2010 to 54% and was 55% at the end of March 2011. This is still equivalent to a deficit of around £7.2 billion. This is a very broad indication of how far benefit values might need to be cut if BA were to become insolvent, or how much money the scheme would need to secure fully all benefits.

The rules around what would happen to your benefits in this situation are very complex. The Pension Protection Fund (PPF) exists to provide protection to members of a pension scheme if their employer becomes insolvent. Under current conditions, it is possible that NAPS could be admitted to the PPF if BA were to become insolvent.

The compensation from the PPF provides some protection to members, but it would be less than the benefits provided under NAPS. For example, members below their normal pension age would receive only 90% of the current level of benefits, subject to a cap. The level of the cap depends on your age when the PPF starts paying your pension, but by way of demonstration, this would be around £28,000 at age 55. In addition, future pension increases

would be significantly less for all of the members. There would be no increases on benefits earned before April 1997 and CPI increases would be capped at 2.5% for benefits earned after April 1997.

It may be that, if BA were to become insolvent, then NAPS would have sufficient assets to pay benefits greater than this PPF compensation. This may mean that you would receive a little more than the compensation provided by the PPF, but your benefits in this situation are likely to be significantly less than under full NAPS benefits. In particular, there is unlikely to be enough money to cover CPI or RPI increases.

Anthony Arter then made the following presentation.

As the legal advisor for the scheme, I will try to describe the position regarding the payment of RPI increases. It is a complicated area, but the key issues are:

- That pension schemes must be administered according to the scheme's rules;
- That the trustees must adhere to these rules;
- That an order published by the government dictates the nature and the amount of the increase. This order is the pension's increased review order, which I will call the "government review order".

Before I explain the trustees' legal position in respect of the RPI and whether you have a valid claim to receive RPI pension increases, I would just like to set out the trustees' legal position in respect of this meeting.

It is being held that you have the right under the scheme rules to call such a meeting. The trustees are here to listen, but it does not affect their duty to administer the fund in accordance with the trust and only to pay benefits that are due under the rules.

Because your scheme has its origins in the public sector, it means that it has many features of the public sector schemes. One of these is that its rules require pensions for most members to be increased in accordance with a government review order, which as you know, has meant that your pensions have increased over many years using the increase in the RPI, subject to a cap of 5% each year. However, as Paul has mentioned, the government has now changed the index used for government review orders to CPI. This means that the scheme rules now require your pensions to be increased in line with CPI, subject to a cap of 5% per year. So, a crucial point is that you have only ever been entitled to the pension increases required by the government review orders; it has never been an absolute right to have RPI increases.

The effect of this is that RPI increases cannot be included in the scheme rules without this increasing members' benefits. The trustees would require BA's approval to amend the rules to allow increases to be made in line with RPI. This is something that BA and the trustees cannot properly agree where the scheme is in deficit and the finances of BA are volatile.

I know many of you feel that, because some of the communications you have received over

the years refer to RPI, this has created a legal entitlement. The trustees were concerned to understand whether this is the case and they instigated a major review of all general communications that had gone out to you, the members. I have reviewed these and so has leading counsel. We were looking for something that gave you, the members, an entitlement to RPI increases. This could have arisen in one of two ways:

That there has been a separate contract formed that entitles members to something different to that stated in the rules;

That there has been an “estoppel”, where in all the circumstances, the trustees are prevented or “stopped” from asserting that all or some of the members are not entitled to increases based on RPI.

In the first instance, for a contractual entitlement there has to be an offer to one party that is accepted by the other where the parties intend to create a contractual relationship and where the accepting party gives up something in exchange; it is not just a gift. Applying this here, while there is already a legal relationship between the trustees and you, the members, we could not find a shared assumption with the trustees that increases based on RPI were provided under the scheme rules. Many of these communications were merely describing the basis of the government review order at the time, which was, of course, RPI. For example, in the case of a letter to a member’s widow informing her what she was entitled to, it was for information only and was not intended to create a new legal entitlement.

In the situation where members were deciding whether to transfer from APS to NAPS, your scheme, there was an offer (offer), the member was invited to accept (acceptance), and the member had to give up something in exchange by giving up rights in one scheme in order to join another. However, we have been unable to find any intention to create contractual relations. This is because the members’ rights arise under the scheme and not under a contract. A member must establish that there was an intention on the part of the trustees to contract with a member outside the rules, to give the member something greater than the member was entitled to. In this case, trustees were giving the members options under the rules, rather than offering something over-and-above the rules.

The pension scheme’s counsel thought it was very unlikely that a group of members could successfully argue that a contract had been formed on the decision whether to transfer to NAPS that entitled them to RPI-based increases.

Next I now turn to something called an “estoppel”. This is the second potential route by which a member could claim legal entitlement to RPI increases. There are two types:

- Estoppel by convention
- Estoppel by representation

The first one would apply to the membership as a whole, and the second one is an individual claim.

Estoppel by Convention

For the membership as a whole to be able to rely on this, there has to be a clear statement on which everyone, employers, trustees and members, have acted. We have not been able to find such a statement, because there is no common shared assumption by everybody that the scheme entitles members to RPI increases instead of whatever increases are required by the government review orders.

Estoppel by Representation

This is a claim made on an individual basis and there is no need to show a shared assumption. It is where the trustees have made a representation to a member who has relied on it to his or her detriment in such a way as to make it unconscionable for the trustees to go back on their representation. All the representations made to the member must be clear and unambiguous. There may be individual members who believe they have such a claim, however, they have to prove that they would have acted differently at that time and that they are now at a detriment because they did not. Can the member prove that he or she acted to his or her detriment as a result? There may be individuals who can do so, but do not be under any illusion that it is a very high hurdle to jump and there are a number of cases that prove it is extremely difficult. There has been a recent one, a Prudential case where the claimants lost. Both counsel and I believe that it would be very difficult for members to prove this, particularly in the circumstances that RPI itself has often fluctuated.

In order to provide increases above those provided by CPI, it would be necessary to amend the scheme rules. This requires, as you have heard, the consent of BA. While the advice is that there is no legal entitlement for increases outside those provided under the rules and that the hurdle for establishing an individual estoppel case is high, pensioners should be assured that I am supporting the trustees' objective to provide a discretionary power to award RPI increases as soon as it is possible to do so.

Paul Spencer then closed the formal part of the presentation with the following remarks.

I would just like to reiterate that the trustees have set an objective to restore RPI as the inflation index once it is prudent to do so. We have been working on this for a while and the sub-committee of the trustee board is defining how to go forward. We are working with the APS trustees and BA on the issues and we will keep you informed of progress.

I do think it is very important that we communicate to you as much as we can what we are doing and how we are getting on. We will do that. In reality though, and I have to say this, NAPS is some distance from being in a position to award additional increases to those prescribed in the order, CPI, and we cannot undertake to provide such increases until we have agreement with BA. We recognize that in the interim pensioners are suffering and will only receive CPI increases, but if we go too fast, we risk something external happening either to BA or to the scheme that could jeopardize our ability to fulfill the promises made under the scheme rules to you, the members.

We need and we will balance these issues across the whole membership, part of the NAPS Trust. I would like to reassure you that a very important aim of all the trustees is to provide RPI increases as soon as it's prudent to do so.

There followed a period of questions from the floor. These were wide ranging in content and whilst RPI/CPI did feature it was clear that there were many other issues of concern too. The meeting concluded with a resolution being put to attendees as follows:

“This meeting demands:

- 1. That the NAPS trustees exercise their powers to influence to BA into agreeing to a supplementary rate to clause 16 of NAPS scheme rules, giving trustees discretionary power to award discretionary benefit increases as per rule 15 of APS, thus maintaining parity with APS;*
- 2. That the NAPS trustees retain a funding target to pay RPI increases;*
- 3. That the NAPS trustees restore RPI pensions increases back-dated to April 2011, thus meeting members’ expectations;*
- 4. That a postal ballot be convened, the general nature of which will be concerned with the route the change to basis of the pension increase review order, the final wording of the ballot to be notified by myself.(G Carswell)”*

The resultant show of hands was 228 for, 10 abstentions and 2 against. In addition there were a further 973 proxy votes, also in favour.

With this endorsement of ABAP’s stance BA Pensions have been written to request that a ballot under Rule 27 of the Trust Deed Rules be conducted. This requested has been backed up as required by 100+ signatures of both actives and members. The ballot must be conducted within 35 days in this case late October.

The considered view of ABAP is this report is all very well but it in no way explains:

- 1. How the BA 2010 Pensions Recovery Plan using RPI for the full plan until 2026 was approved by the Pensions Regulator together with IAG partners (pension sceptic) Iberia if security has become critical by 2011 even before the 2012 Triennial Valuation due on 31 March 2012.**
- 2. How certain NAPS benefits to the tune of £50m have been awarded when the cost of RPI to both schemes until 2012 would have been less than this figure.**

ABAP will continue to work for the return of RPI to APS as the APS Deed allows more scope. Our view is that NAPS should also benefit when the consequent adjustments are achieved.

The Committee of ABAP.

12th October 2011