

Ombudsman's Determination

Applicant	Ms K
Scheme	Central Bureau for Educational Visits and Exchanges Pension Scheme (the Scheme)
Respondent(s)	Capita ATL Pension Trustees Limited (the Trustees) British Council (BC)

Complaint Summary

Ms K has complained that the Trustees and BC have unjustly stepped back from their historic practice of revaluing deferred benefits by 5% per annum.

Summary of the Ombudsman's Determination and reasons

The complaint should be partly upheld against the Trustees and BC because:

- Although BC had the power to amend the Rules, which they did having taken legal advice on the matter, there was a clear representation in a variety of documents and correspondence issued to Ms K over a number of years that revaluation would be fixed at 5% per annum. Finding out that this representation was incorrect would have caused Ms K a serious level of distress and inconvenience which should be recognised.
- However, there can be no estoppel because there are no direct links between the acts taken by Ms K and the misrepresentation.

Detailed Determination

Material facts

1. The scheme was established by the Central Bureau for Educational Visits and Exchanges (**CBEVE**) in 1972.
2. From at least September 1988, deferred members' benefits were revalued in practice at 5% per annum.
3. Ms K joined the Scheme on 4 December 1989. Documents, including the member booklet, transfer value statements, benefit statements etc. issued to Ms K during her membership of the Scheme referred to a fixed rate revaluation of 5% on deferred pensions. However, the Scheme Rules were silent as to the rate of revaluation of deferred pensions.
4. In 1993/94, CBEVE merged with BC and BC became the Principal Employer of the Scheme. At the time of the merger employees were given the choice of remaining in the Scheme or transferring to the Principal Civil Service Pension Scheme (**PCSPS**).
5. On 13 January 1993 Ms K received a memo from her Head of Department. The memo includes the following statement "The Director has asked all heads of department to reassure staff where pensions are concerned and to point out that, on balance, they stand to gain more from the existing Central Bureau Scheme than would be on offer under the Civil Service arrangements."
6. On 16 March 1993 Ms K received a further memo from her Head of Department saying that "independent advice on the pension situation" would be available the following day. Ms K took up this offer and her notes of the meeting include the following "CB Scheme good. Employer's contribution of 11% is very generous."
7. Before the merger members of the Scheme were provided with a Q&A document which informed their decision whether to remain members of the Scheme or to become a member of the PCSPS. Among other explanations of the differences between the two schemes, this documentation explained the revaluation rules as then understood. It reflected the Trustees' existing practice on revaluation. A number of BC employees chose to remain members of the Scheme. Ms K was one of them.
8. The discrepancy between how deferred pensions were revalued in practice and the provisions of the Scheme Rules came to light in 2011 when BC was asked to approve new consolidated Trust Deed and Rules which provided for revaluation of deferred benefits at a fixed 5% per annum.
9. On 31 January 2013, the Scheme closed to future accrual at which point Ms K became a deferred member of the Scheme.

10. BC did not approve the new proposed consolidated Trust Deed and Rules and, in August 2013, the Trustees and BC sought Counsel's opinion on the rate of revaluation of deferred benefits.
11. Counsel's opinion concluded that the available documentation did not support the view that BC had made a valid amendment to the Scheme Rules so as to introduce a fixed 5% revaluation rate. Counsel also considered that there was no conclusive evidence that BC had ever decided to go beyond the statutory minimum level of revaluation.
12. Members were advised of Counsel's Opinion in March 2015 and provided with revised deferred benefit statements. Ms K's statement indicated that she was entitled to an annual retirement pension of £15,000^{1.32} assuming revaluation of pension in excess of GMP at the statutory minimum level of revaluation. The statement confirmed that had Ms K's pension been revalued at a fixed rate of 5% her annual retirement pension would have been £27,803.88.
13. The Rules of the Scheme were amended by a Deed, dated 7 July 2015, which made the following provisions in relation to deferred benefits:

“...The pension shall then be increased before payment in accordance with the Revaluation laws.”

Summary of Ms K's position

14. Ms K says she relied on the Scheme correspondence showing that her deferred benefits would increase by 5% per annum until normal retirement date in her financial planning. She is extremely careful with her financial planning and keeps detailed records as evidenced by the documents she prepared in 2007 showing possible pension outcomes if she transferred to PCSPS.
15. At the time of the merger they were told that the Scheme had more generous benefits than the PCSPS, including fixed rate revaluation.
16. The Member's Handbook states “The Scheme is established under trust and governed by formal rules. If there is any difference of interpretation between this booklet and the formal rules the provisions of the rules will be followed.” The statement about 5 % revaluation of deferred pension in excess of GMP on page 22 of the handbook is clear and unambiguous. Since there was no clause in the rules about revaluation there is no question of ‘interpretation’.
17. BC has the power to amend the Scheme rules but has chosen not to do so. As a result, the Trustee has applied the minimum revaluation required by law, and this is the cause of the significant reductions in the deferred pensions.
18. The 5% revaluation rate was a rule change that was being applied until 2014 and any rule change should date from the last date on which the previous rule was applied.

19. The PCSPS has provisions for Voluntary Early Retirement (**VER**) unlike the Scheme. In 2009 Scheme members were denied equivalent VER terms on the grounds that they had other compensatory benefits. Had she known that the 5% fixed revaluation would not apply she would have chosen to join the PCSPS to benefit from the VER provisions. It was manifestly unfair to hold up a benefit as 'compensation' in the 2009 and 2010 VER exercises and then to annul the benefit in 2015.
20. In 1993/94 at the time of the merger she took into consideration the possibility that she might be forced out, or choose to leave, at a much earlier date. BC was facing severe funding cuts. This was why at the time of the merger, CBEVE was ring-fenced from staff losses for the first three years. In September 1995 there was a large downsizing exercise and there was every reason to expect further redundancy measures after the three-year period came to an end.
21. One of the reasons for the merger was the Department for Education's wish to save money. This coupled with the pressure on head count at BC meant there was every possibility she might have left sooner rather than later.
22. There were other benefits enjoyed by serving BC staff, notably in the terms of recent voluntary exit programmes, which were 'out of step' with (denied to) serving Scheme members. In other words, BC's assertion of inequity over revaluation ignored the inequity of treatment over voluntary exit. Never at any point were CBEVE staff told that if they remained in the Scheme they would be treated differently when it came to redundancy arrangements.
23. When she wrote to BC that the Scheme had no provision for VER she was quoting what she had been told by BC. In 2017 she investigated this point and uncovered documents that suggest a different scenario. If CBEVE Scheme members were intended to get only the legal minimum of statutory compensation in cases of redundancy this would or should have been clearly stated to staff when they had to choose between the two pension schemes.
24. There were many references in the merger documentation to the merger plans advancing rapidly without due consideration of personal issues, problems over conditions of service for CBEVE staff, especially around the pension and there being little or no incentive for Scheme members to switch to the PCSPS.
25. Various historical Trustee reports refer to the rate of 5% per annum increases on benefits in deferment. However, there is no evidence that the Trustees at that time made any attempt to formally introduce the 5% revaluation rate to the Scheme rules as they were obliged to do.
26. Information she has received suggests that BC knew of the lack of specification in the Rules since at least 2003. Had Scheme members been informed at the time it could have been an incentive to switch to the PCSPS, not least because it offered the possibility of buying added years. Had she been informed in 2006 or even in 2011 she could have taken out a personal pension to cover the pension shortfall. She has

suffered financial detriment through a loss of opportunity to enhance her pension provision.

27. Counsel opinion in September 2013 was said to be based on “the available documentation”. In the three-year negotiation between the Trustees and BC very little archive documentation was made available to the Trustees. It took her and her fellow applicants 12 months to obtain the contents of 16 archived boxes but only one of these had been made available to the Trustees and it is not clear if that was before or after Counsel opinion was sought. The boxes contained myriad references to the revaluation of deferred pensions being fixed at 5%.
28. There remains doubt that all conclusive evidence was considered by Counsel particularly in connection with the two missing storage boxes that the off-site storage company were unable to locate.
29. In 2006 she took out a large mortgage with her partner. The term was 15 years as she was 47 years old at the time. The price of the property and her contribution to the joint mortgage were predicated on an expectation of a) being in continuous employment until retirement b) earning a salary with anticipated annual increases and c) receiving a pension in accordance with the Member’s Handbook and annual benefit statements. She relied on the statements in the Handbook with regard to deferred pensions and pensions-in payment. Had she known the correct position she would have purchased a less expensive property.
30. In October 2007, she considered leaving the Scheme and transferring to the PCSPS. She carried out some pension projection calculations and found she was better off staying in the Scheme because of the 5% fixed rate revaluation. This illustrates her absolute reliance on the information she had been given.
31. She had hoped to retire in 2019 at age 60. With her mortgage term due to run until 2021, she and her husband had hoped to use assets to pay off the mortgage a couple of years early and live on their pensions. A pension cut of 20% would have a serious impact for her.
32. She satisfies all five points to support a claim of estoppel by convention. There was a common assumption on which she relied. BC and the Trustees have assumed responsibility. There was subsequent mutual dealing between her, BC and the Trustees. This was the notification for the first time in 2009 that they were not eligible for the VER terms being offered to BC staff who were members of the PCSPS. The ineligibility centred on the advantages of the Scheme which included 5% revaluation. Detriment has been suffered through loss of opportunity to enhance our pension provision.
33. Further to have learned of this reduction just four years before her planned retirement had left no time to make alternative arrangements.

In Brand v Sequence (UK) Ltd (PO-581) the complainant was deprived of the opportunity to consider her position and make a fully informed choice. Similarly, Mrs K had no reason to query something she did not know about. She chose the Scheme over the PCSPS because of its apparent advantages. She was never told at the time that doing so would remove her entitlement to early retirement/severance terms. Summary of the Trustees' position

34. Having sought the opinion of Counsel the Trustees accepted that no conclusive evidence has yet been found to demonstrate that a decision was taken to introduce a revaluation rate of 5% per annum fixed. There was no option but to administer the Scheme in accordance with the Rules and provide only statutory increases to deferred pensions.
35. The Trustees have made extensive enquiries of BC and have received assurances that all relevant documentation had been disclosed to it.
36. The 7 July 2015 Deed adopts new rules that take effect from that date. Clause 3 of the Operative provisions makes it clear that any benefits payable to or in respect of a member who ceased to be in pensionable service before this date shall be calculated under the previous rules. The 2015 Deed does not change the rate of revaluation that was to be applied for accrual prior to its effective date. As pensionable service ceased to accrue from 1 February 2013 the 2015 Deed is irrelevant for assessing the correct rate of revaluation to apply to deferred pensions.
37. At the relevant time the PCSPS offered a measure of inflation protection that was uncapped. Members on fixed rate increases would therefore gain in times of low inflation but lose when inflation rose above 5%. At the time of the invitation to join the PCSPS in 1993 inflation had dropped to 1.6% and the value of a fixed 5% increase would have been apparent to members.
38. BC offered VER to employees in 2009. Employees who had remained members of the Scheme rather than transfer to PCSPS were not offered the same VER rates. The reason they were given for this was that Scheme members were entitled to more favourable benefits than PCSPS member including 5% fixed rate revaluation.
39. Counsel opinion indicated that members had plausible claims for estoppel. Consideration of an estoppel claim should include the impact of the time over which the applicant has relied on the established practice of applying 5% per annum increases.

Comments submitted by Mrs Y - a Trustee and long serving CBEVE employee

40. She has been a member-nominated trustee since April 2006.
41. At the time of the merger staff were assured that BC would honour all existing arrangements in respect of terms and conditions including pension arrangements.

42. As a member-nominated Trustee she has been contacted by many staff affected by BC's decision to disregard the merger agreements and undertakings. They feel an understandable sense of injustice as they are obviously aware that all previous pensioners have received the 5% revaluation.

Comments submitted by Mr K - a Trustee and long serving CBEVE employee

43. He has been a trustee of the Scheme since 2004.
44. At the time of the merger BC was anxious to maintain the principle and practice of TUPE in relation to the pensions aspect of the merger.
45. In light of the assurances and solemn undertakings given in open meetings, and in writing, the vast majority of CBEVE members decided to stay with the Scheme. Only one member decided to leave and join the PCSPS.

Summary of BC's position

46. Both BC and Capita sought legal opinion on the issue. Wide ranging documentation including the Member's handbook was reviewed as well as the general administrative practice.
47. The outcome of the Counsel's review of the documents and circumstances of this case was that no legal basis for the application of the fixed 5% per annum rate of revaluation for deferred pensions could be established.
48. It would be difficult in the current climate to justify a decision to apply a fixed level of revaluation which far exceeds the current level of inflation.
49. Deferred pensions under the PCSPS are revalued in line with cost of living increases based on the CPI Index. Any decision to apply fixed 5% increases to deferred pensions for a group of former and current employees would be out of step with other current and former BC staff.
50. If the members had chosen to join the PCSPS their Scheme benefits would have been deferred and re valued until payment so it seems unlikely that the rate of revaluation of deferred pensions was a material factor in the decision to remain in the Scheme.
51. At the time of the merger members were advised that pensions in deferment would be re-valued in line with statutory increases.
52. While sympathising with the members' positions our understanding of the purpose of revaluation is to ensure the value of accrued benefits are not eroded by inflation. That objective is met by the statutory provision now incorporated into the Scheme Rules. Strictly, therefore there has been no loss. It is however possible that in some cases a false expectation of the level of revaluation has been provided.

Conclusions

Revaluation and interpretation of the Rules

53. Ms K's complaint is that the Trustees and BC have unjustly stepped back from the historic practice of revaluing deferred benefits by 5% per annum. It is undisputed that until BC and the Trustees sought Counsel opinion, in August 2013, in relation to the revaluation of deferred pensions, Scheme practice was to increase deferred pensions by 5% per annum. Ms K contends that the 5% revaluation rate was an effective rule change that was being applied until 2014 and so the Rules should formally be amended to reflect that.
54. Before the Deed of Amendment dated 7 July 2015, the Rules that governed the Scheme were silent on the matter of revaluation of deferred benefits in excess of GMP. Counsel opined that BC had never made a valid amendment to the Scheme Rules to introduce a fixed 5% revaluation rate and so the statutory minimum level of revaluation applied throughout the period under dispute.
55. Ms K argues that although BC has the power to amend the Scheme rules it has chosen not to do so. Rule 21 of the Rules states "The Principal Employer may (subject to the terms of the Instrument and subject to the consent of the Occupational Pensions Board where required by the Pensions Act) at any time by resolution amend any of the provisions of the Rules." As Ms K states, Rule 21 clearly provides BC with the power to amend the Rules of the Scheme and this is what it has now done albeit not in the way Ms K would have liked. Rather, BC has clarified that the method of revaluation to be applied to deferred pensions will continue to be the statutory minimum required by the law.
56. Ms K argues that Counsel was not provided with all the relevant information when it provided its opinion. She says that through a Freedom of Information request she and others were provided with boxes of information that contained myriad references to the revaluation of deferred pensions being fixed at 5%. I have seen nothing to suggest that information was withheld from Counsel. But, in any event, the issue is not about whether there was documentation or papers that supported the fact that Scheme practice was to increase deferred pensions by 5% per annum. Rather, the issue Counsel opined on was whether a valid amendment had been made to the Rules which introduced a fixed 5% revaluation rate or whether a decision had been made to do so. Counsel opined that a valid amendment had never been made. I have not been provided with any documents resulting from searches carried out before or since Counsel formed his opinion which presents evidence that a decision was made to introduce such a Rule.
57. Ms K contends that BC has been aware of the lack of specification in the Scheme Rules since at least 2003. I agree that the issue appears to be very longstanding. The summary of evidence submitted to Counsel shows a live issue dating back to 1988, no evidence of any formal resolution of it and an inconsistent approach to the way

that the increase rule was described to members at the time of the 1993 merger of employers. However, I do not see that the outcome was likely to have been any different had BC resolved the issue of interpretation earlier. BC could well have taken the same view in 2003 as they did in 2017.

58. In summary, BC had the power to amend the Rules which they did having taken legal advice on the matter. I do not find their actions incorrect or that this amounts to maladministration.

Estoppel

59. However, there has been clear misrepresentation and there is no dispute that some of the correspondence, announcements and statements issued to members reflected that the revaluation method applicable to deferred members was 5% per annum. Both BC and the Trustees acknowledge the possibility, subject to specific facts in individual cases, that members may have plausible claims for estoppel.

60. To succeed with a defence of estoppel by representation, a person needs to establish an unambiguous representation on which he or she relied in good faith to their detriment.

61. These requirements were elaborated in the case of *Steria v Hutchison* [2006] 64 PBLR. In that case Neuberger LJ said as follows:

“When it comes to estoppel by representation or promissory estoppel, it seems to me very unlikely that a claimant would be able to satisfy the test of unconscionability unless he could also satisfy the three classic requirements. They are (a) a clear representation or promise made by the defendant upon which it is reasonably foreseeable that the claimant will act, (b) an act on the part of the claimant which was reasonably taken in reliance upon the representation or promise, and (c) after the act has been taken, the claimant being able to show that he will suffer detriment if the defendant is not held to the representation or promise. Even this formulation is relatively broad brush, and it should be emphasised that there are many qualifications or refinements which can be made to it.”

62. An estoppel by convention may arise where parties to a transaction act on the basis of a common assumption as to fact or law so that it would be unjust to allow one of the parties to go back on it. In *Commissioner for her Majesty's Revenue and Customs v Benchdollar Limited and Others* the judge summarised the principles applicable to the assertion of an estoppel by convention arising out of non-contractual dealings as follows:

- vi) it is not enough that the common assumption upon which the estoppel is based is merely understood by the parties in the same way. It must be expressly shared between them.

- vii) The expression of the common assumption by the party alleged to be estopped must be such that he may properly be said to have assumed some element of responsibility for it; in the sense of conveying to the other party an understanding that he expected the other party to rely on it.
- viii) The person alleging the estoppel must in fact have relied upon the common assumption, to a sufficient extent, rather than merely upon his independent view of the matter.
- ix) That reliance must have occurred in connection with some subsequent mutual dealing between the parties.
- x) Some detriment must thereby have been suffered by the person alleging the estoppel, or benefit thereby have been conferred upon the person alleged to be estopped, sufficient to make it unjust or unconscionable for the latter to assert the true legal (or factual) position.

Having considered the Handbook content, the consistent practice of using a fixed 5% in actuarial valuations, the email sent by BC's HR manager at the time of the employer merger, the practice of issuing leaver statements, the explanation of that practice contained in BC's 6 February 2007 correspondence, the payment of benefits on that basis up until 2014, and the inclusion of a rule to that effect within the proposed consolidated Rules, I consider that on the balance of probabilities, the Trustee, BC and Ms K had between 1993 and the date of scheme closure in 2013, been acting on a common and expressly shared assumption that 5% was fixed and the amount which was quoted in Ms K's leaver statement was what she would get at retirement, that the understanding was expressly shared between BC and the Trustee and Ms K in such a way that she could be expected to rely on it.

- 63. The same course of dealing also involved clear representations to Ms K that revaluation would be fixed at 5% per annum and it was reasonably foreseeable that she would take decisions based upon them.
- 64. I understand BC and the Trustee to accept that these elements of the tests for estoppel are made out. However, it remains for Ms K to demonstrate detrimental reliance. I consider that on the evidence presented Ms K cannot demonstrate such reliance for the following reasons.
- 65. Ms K says she relied on the Scheme correspondence showing that her deferred benefits would increase by 5 % per annum until normal retirement date in her financial planning. She says that the 5% revaluation to her deferred benefits was the reason she remained within the Scheme and she has produced detailed calculations from 2007 showing her projections, premised on assumptions including revaluation rates in the Scheme and the PCSPS.
- 66. I do not understand Ms K to be saying that she relied solely on the fixed 5% when making the initial decision not to move to PCSPS at the time of the employer merger.

She has set out her decision-making process as one which involved a balanced evaluation of which of the two benefit structures was most advantageous, including the employer contribution rate. She does not assert, and I have seen no evidence, that stripping out the fixed 5% revaluation would have tipped the balance of her decision making the other way. In any event, it would have been impossible to do the necessary maths as at the date of the decision because it would have required an understanding of the date on which the pension would become deferred, which was unknowable at the time.

67. Ms K has put forward a number of arguments in relation to the VER provisions in the PCSPS. . She says that in 1993/94, at the time of the merger, she took into account that there was a possibility that she might be forced out, or choose to leave, at a much earlier date than she intended. She says that in 2009 Scheme members were denied the VER terms which available to members of the PCSPS on the grounds that they had other compensatory benefits such as the 5% fixed revaluation. She says that had she known that the 5% fixed revaluation would not apply in the Scheme she would have chosen to join the PCSPS to benefit from the better VER terms.
68. I can see that the potential for such a direct trade off became very apparent with the benefit of hindsight, but in considering whether a person relied on what they were told when taking a decision, I have to consider the comparison factors as they would have presented at the time, without benefit of hindsight. There were a number of differences between the two schemes to which attention was drawn in the comparison document provided in 1993. For example, the accrual rate of pensions, is higher in the Scheme, the amount paid on death in service is more favourable in the Scheme, the ill health provision is more generous. Conversely, the lump sum provision is less generous and the calculation of Final Pensionable Earnings is based on final year rather than best of the last three. I cannot therefore accept that the revaluation of deferred benefits was the only or a significant factor driving the decision to remain in the Scheme. It was likely to have been one among many.
69. Ms K says that in 2006 she took out a large mortgage with her partner. She says that the price of the property and her contribution to the joint mortgage were predicated on an expectation of a) being in continuous employment until retirement b) earning a salary with anticipated annual increases and c) receiving a pension in accordance with the Member's Handbook and annual benefit statements. Ms K contends that had she known the correct position she would have purchased a less expensive property. I have no doubt that in 2006, when Ms K purchased her property, that her current and future income, both before and after retirement, would have been a deciding factor in the actions she took. However, it is clear that the decision was made based on assumptions other than pension i.e. that she would be in continuous employment, with increases to her salary, until her retirement date. She expressly did not work on the assumption that she would not remain in continuous employment, or as happened, the Scheme would be closed and she would become a deferred member. The link between the decision to take the mortgage and the misrepresentation is too

tenuous to agree that this was an act which was reasonably taken in reliance upon the misrepresentation.

70. Ms K submits that in October 2007, she considered leaving the Scheme and transferring to the PCSPS. She carried out some pension projection calculations and found she was better off staying in the Scheme because of the 5% fixed rate revaluation. She has provided her workings and says this document illustrates her absolute reliance on the information she had been given. I have considered the document Ms K has provided and see that she has indeed made a comparison between the benefits she could accrue in the Scheme and potential benefits from the PCSPS. I note however that the comparison assumes that employment ends at age 60 and then goes on to compare increases post retirement. There is no comparison of revaluation of deferred benefits should membership of either scheme end before age 60.
71. Ms K refers to a previous Ombudsman Determination *Brand v Sequence (UK) Ltd* (PO-581). She says that like the applicant in that determination she has been deprived of the opportunity to consider her position and make a fully informed choice. The Ombudsman concluded in PO-581 “that it is more likely than not that the representations made by the Trustee over the years were a significant factor that [Mrs B] took into account in making her retirement plans and in acting as she did. With this in mind it would be unconscionable to allow the Trustee to go back on the representations made to Mrs [B]. The key point in that determination was that the representations were a **significant** factor in the decision made. As I have found in paragraph 69 above, it is unlikely that the revaluation of deferred benefits was a significant factor driving Ms K’s decision to remain in the Scheme at the time she made that decision.
72. I am aware that Ms K has made representations specifically about the way that VER terms were explained to scheme members and I understand that because of what she learned in 2009, she now considers that what she was told in 2003 was incorrect. I have considered these points only in so far as they are relevant to the issue under investigation in this complaint. I am not satisfied that Ms K can establish an estoppel arising out of the understanding that she gained in 2009, because she did not make a choice about which scheme to be in at that point.
73. To the extent that Ms K’s representations raise issues about what BC employees were told in 2003 about their early severance terms and VER these are outside the scope of the matter which was accepted for investigation. I make no findings about them here.
74. In summary, there are no direct links between the acts taken by Ms K and the misrepresentation about revaluation in deferment and so there can be no estoppel by representation.

75. In considering the extent of the distress and inconvenience caused by the misrepresentation about revaluation in deferment, I have taken into consideration that the misrepresentation occurred for nearly 20 years which, in my view, will have caused a serious level of distress and inconvenience to Ms K. I am satisfied that the Trustees and BC are equally responsible for the misrepresentation and I have made an appropriate direction below.

Directions

76. Within 21 days from the date of the determination the Trustees and BC shall each pay Ms K £500 in recognition of the serious level of distress and inconvenience the misrepresentation will have caused her.

Karen Johnston

Deputy Pensions Ombudsman
13 March 2019

Annexe

Relevant Documents

77. Scheme rules (1986)

“21. Amendment of the Scheme

The Principal Employer may (subject to the terms of the Instrument and subject to the consent of the Occupational Pensions Board where required by the Pensions Act) at any time by resolution amend any of the provisions of the Rules.”

78. The 7 July 2015 Deed

“5. Benefits for deferred members

5.2 Preserved Pension at Normal Retirement Date

...The pension shall then be increased before payment in accordance with the Revaluation laws.”

79. Member’s Handbook

“Introduction

The Scheme is established under trust and governed by formal rules. If there is any difference of interpretation between this booklet and the formal rules the provisions of the rules will be followed. Copies of the rules are available for inspection by the Members.

After Completion of two years’ qualifying service

(A) (2) ...those proportions of your pension entitlements relative to service after 1984 which are in excess of your Guaranteed Minimum Pension calculated at the date of leaving service, will be increased by 5% per annum compound for the number of complete years between the date of your leaving service and your Normal Retiring Date. “

80. Scheme Trustees report (undated)

“Pension Increases (continued)

Members who left service on or after 1st January 1991 with entitlement to deferred benefits have the benefits in excess of the GMP at date of withdrawal increased by 5% pa for the number of complete years from their dates of withdrawal to their normal retirement date.”

81. Minutes of Trustees meeting of 28 September 2011

“The issue of 5% revaluation on deferred pensions was discussed. The

current Rules and re-draft do not stipulate the increase rate but Eversheds have, in the latest draft, included reference following confirmation from the Trustees at the 20 June meeting that 5% revaluation is current practice. It was noted that 5% indexation is referred to in the members' booklet and scheme valuations have assumed 5% revaluation of deferred benefits. It was agreed that further investigation is required to provide supporting documentary evidence of this provision."

82. **Document headed- Comparison of the Central Bureau Staff Superannuation Scheme (CBSSS) and the Principal Civil Service Pension Scheme (PCSPS).**

This was issues in 1992 and showed benefits at Normal Retirement date were based on an accrual rate of n/60ths under the Scheme and n/80ths under the PCSPS. It stated that increases on non GMP pensions in deferment was 5 % under the Scheme and that both GMP and Non GMP elements were subject to increases in line with RPI under the PCSPS.