

Pensions: What You Need To Know

According to a recent press report, just 3 in 10 of Britain's biggest companies are confident of being able to meet their final salary pension promises to staff without having to amend their existing arrangements or shut the schemes down. Companies like Rentokil, the Co-op, Arcadia and BAE Systems have already announced changes to their pensions schemes and those are set out on page 4 of this Newsletter.

Quite rightly, staff in those companies that have already announced changes, and those that are grappling with crippling deficits are concerned about the future of the most important benefit they currently receive. Given that the Lloyds TSB Group has a pension deficit of some £3.18 billion, many staff are rightly concerned about the Bank's ability to meet its pensions promises.

We have received many questions from members asking about what the Bank can and can't do to the pension schemes in order to reduce the size of the deficit and in this Newsletter we will respond to the most frequently asked questions.

Q1. Can the Bank change the benefits of the pension schemes, for example moving from final salary to average earnings?

INSIDE

"Who is responsible for clearing the deficit?"

"Can the Bank simply close the Schemes down?"

"What would be the effect of changing some of the benefits?"

Does Size Matter?

- A. For Lloyds heritage staff who are members of the Lloyds Bank Pension Scheme the simple answer is no they can't.** Rule 19 (old Rule 9) of the Lloyds Bank Pension Scheme refers to "the pecuniary benefits secured" and this stops the Bank from changing the benefits of the scheme both those accrued from past service and, more importantly, future benefits, without the support of 3/5ths of members of the pension scheme.

Those four words in Rule 19 were the centre of a legal case held in the Chancery Division

of the Royal Courts of Justice back in 1996. Briefly, the Bank and Trustees wanted to achieve equalisation in the retirement age of staff who joined the Bank prior to the 1st July 1974 by raising the retirement age for women from 55, to that of men, 60. The Bank and Trustees argued that "decreasing the pecuniary benefits secured" referred only to benefits that already accrued at the date of any change, rather than the right to future benefits. LTU resisted this change vigorously and supported legal action by Sarah Cowpe, a member of the Lloyds Bank Pension Scheme, against the Bank and Trustees in the High Court. As is so often the case, in a judgement which was a tour de force in the use of language, Mr Justice Rimmer, who referred to "past participles", "passive voice" and "conjugated verbs", concluded that:

"In my judgement the natural interpretation of 'the pecuniary benefits secured under the Scheme' in general rule 9(1) is that it refers both to benefits accrued to date by past service and to all future benefits promised under the Scheme ...".

So, whereas companies like Rentokil, the Co-op, BAE Systems and maybe British Airways can reduce the future benefits under their Schemes, that is not an option available to the Bank in respect of the Lloyds Bank Pension Scheme.

In respect of the TSB Pension Scheme there is no similar wording in the Trust Deed to Rule 19 of the Lloyds Pensions Scheme. Rule 78 of the TSB Scheme says that any changes to the provisions of the Rules and of the Trust Deed

can only be made with the approval of the Trustees. So Rule 78 protects accrued rights, and pensions and allowances in payment but there is nothing in the pension scheme rules which stops the Bank from reducing future benefits. LTU will be writing to the Bank asking it for a clear commitment that it has no plans to alter future benefits for TSB heritage staff.

Q2. Who is responsible for clearing the deficit?

A. The scheme rules are very clear on this point. Rule 4 of the Lloyds Bank Pension Scheme says that following an actuarial investigation, "If the valuation shows that the Scheme is in deficit, the Employers will pay such additional contributions to the Scheme as the Scheme Actuary considers necessary". In respect of the TSB Pension Scheme, Rule 76 states that the Bank "... should contribute to the Scheme at such rates as the Trustees and the ...(Bank) may from time to time agree after consulting the Actuary.".

Q3. Can the Bank simply close the Schemes down altogether?

A. The Bank can't close the Lloyds Bank Pension Scheme down and stop people from accruing pension benefits. Any such amendment or proposal would be a direct breach of Rule 19. Moreover, nowhere in the Pension Scheme Rules does it give the Bank the express power to cease contributions. The rule dealing with termination of the Scheme applies only in the event that the Bank is dissolved.

The rules of the TSB Pension Scheme are much less onerous than the Lloyds Scheme. The Bank

can terminate the TSB Pension Scheme simply by giving notice to the Trustees. However, funding a closed scheme would be very capital intensive and not something the Bank could afford to do easily, even if it wanted to.

Q4. What would be the effect of changing some of the benefits?

A. In respect of the Lloyds Bank Pension Scheme the Bank can't and for the TSB Pension Scheme, they would need the support of the Trustees. That may not be a problem given that the majority are Bank nominees.

For the sake of the question, let's assume that they could. According to Mercers, the Actuaries, using standard actuarial calculations, an individual in a final salary scheme from the age of 30, when they are earning £30,000, could expect a pension of £45,400 by the age of 65, given above inflation pay rises. If they are switched into a money purchase scheme at 50, their pension at 65 would fall to £31,600. If the individual wanted to retire on £45,400 they

would have to find the shortfall of £276,000. To do that they would have to contribute an extra 20% of salary over and above what they are already putting into the money purchase scheme or work an extra 9 years. Switching from final salary to average earnings will have a similar affect.

Largest FTSE 100 Company Pension Deficits	
Estimated pre-tax deficit as at 30th June 2005	
	£m
British Airways	1,758
BAE Systems	4,489
ICI	1,266
Rolls-Royce	1,468
Royal & Sun Alliance	727
BT Group	5,058
Rexam	459
ITV	675
Whitbread	379
Lloyds TSB	3,376
J Sainsbury	566
Marks & Spencer	682

Does Size Matter?

In the case of pension deficits, it's a burden Eric Daniels could do without. According to the latest research conducted by UBS, which is set out above, the Lloyds TSB Group has a pensions deficit of £3.376 billion based on the FRS17 accounting rules.

We understand that the Bank's Actuaries are undertaking a full actuarial valuation of both funds and that will determine the overall size of the deficit. The issue for the Trustees then, and that's something which no doubt they will be discussing with the Bank

now, is how the deficit has been calculated, how will it be repaid and over what period?

LTU, together with its Actuary and Lawyers, will be seeking to ensure that we get the best possible deal for the Pension Funds. The types of issues we would be seeking to discuss with the Bank/Trustees include:

- **What is the funding target for the Pension Schemes?**

- **What methodology and assumptions have the Lloyds TSB Trustee Directors used to determine the size of the deficit?**
- **How do the Trustee Directors intend to eliminate any shortfall in the Pension Funds?**
- **Over what period will they seek to eliminate the Pension Funds' deficit?**

This review of funding is likely to take a number of months to complete and we will keep members updated on the review through regular Newsletters.

Contacting LTU

Members with any questions or comments can contact the Union's Bedford Office as follows:

- Telephone: 01234 262868**
- Fax: 01234 262821**
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Strategies To Tackle Rising Pension Costs

- **Rentokil Initial:** became the first FTSE 100 company to propose closing its final salary scheme to further accruals, with future pension benefits to be earned on a defined contributions basis. Pension benefits earned to date will be a percentage of the salary earned as of the closing date of the scheme, not final salary.
- **Co-operative Group:** closing the final salary defined benefit scheme and replacing it with a scheme that awards benefits based on average salaries. Pending regulatory and trustee approval.
- **Arcadia:** retaining final salary scheme but increasing employee contributions to 6 per cent of pay from 4 per cent and raising retirement age to 65 from 60
- **BAE Systems:** offered to inject £500m into its pension scheme, seeking union approval for a deal similar to that agreed in other parts of the business where employee and employer contributions roughly double.
- **In November 2003, Rolls-Royce** averted industrial action on pensions by agreeing to increase its annual contribution to the scheme while members slow future accruals to $\frac{1}{80}$ th of final salary from $\frac{1}{60}$ th for each year of employment.
- **British Airways:** not yet put forward proposals for solving the deficit problem but unions fear they will opt for a solution of a "career average" pension scheme rather than the defined benefit scheme.