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Mineworkers' Pension Scheme

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Summary

On privatisation of British Coal in 1994, an arrangement was made between the Government and the trustees of the Mineworkers Pension Scheme (MPS) on future arrangements for pensions from these schemes after privatisation. Key elements were that the Government would guarantee that any pension earned up to privatisation would not fall in cash terms. If at subsequent valuations, the scheme was in surplus, this would be shared 50/50 between scheme members and the Government. The members' share would be used to fund bonus enhancements over and above annual indexation (HC Deb 27 April 1994 c167-9W). The decision to share the surplus 50:50 was "agreed between the Government, in its role as Guarantor, and the Scheme Trustees," rather than being based on actuarial advice (PQ128727, 26 February 2018). The National Audit Office said the guarantee would be of significant reassurance to pensioners (HC 360 1995-96).

In the 2000s, the Coalfield Communities Campaign argued for a review of the surplus-sharing arrangements, arguing that the guarantee had been struck on actuarial advice which, with hindsight, may have been too cautious and that a "50% share of an unexpectedly large surplus is too much." The Labour Government looked again at the arrangements but decided that, against the background of large falls in stock markets, it would not be right to change the arrangements (HC Deb 7 March 2003, cc 1278-9W). In December 2020, the Government said it had "reconsidered the surplus sharing arrangements of the Mineworkers' Pension Scheme (MPS) and concluded that they remain appropriate." Its surplus share is in return for the government guarantee that ensures that "a member's guaranteed pension, including inflation increases, will always be paid; and a member's total pension (including bonus pension) will not fall in cash terms." It says the guarantee has enabled an investment strategy that has resulted in scheme members receiving payments 33% higher than they would have been if they received only their actual earned pension up to privatisation. In November 2019, it agreed to a proposal by the MPS Trustees to guarantee that bonus pensions already accrued would not be lost in the event of a future deficit (PQ130263, 23 December 2020; Letter from Kwasi Kwarteng to Rachel Reeves MP, 21 April 2020).

A group of MPs representing coalfield communities are calling on the Business Industry Enterprise and Skills (BEIS) Select Committee to conduct an inquiry into the issue. They drew attention to the fact that the average pension for former miners in the Scheme is £84pw and that the Government had received over for £4 bn from the scheme but made no contribution to it since 1994. They argued that the funds in the Investment Reserve "could provide a direct and almost immediate financial uplift to many retired miners' pensions, providing greater financial security for them and their families."

In evidence to the BEIS Committee on 23 March 2021, the MPS trustees said that at privatisation they were essentially, faced with a fait accompli: 'Take it or leave it. If you want the guarantee, it is 50:50'(Q3). Payments to the Government had already exceeded the £4bn projected at privatisation by Binder Hamlyn. It had received £4.4 billion and was due to receive a further £1.9bn over the next few years – a total of £6.3 billion (Q7). The trustees said that if the money in the Investment Reserve was available for distribution to members, it would enable an increase of £14 pw in the average pension (Q28 and 36).

In evidence on 13 April 2021, Minister of State for Business, Energy and Clean Growth, Anne Marie Trevelyan, said she understood that the trustees would still make the same choice today regarding the surplus share in order to have the guarantee. It ensured "no detriment," inflation-linked annual increases (Q44) and had provided "backstop support" to a successful investment policy (Q47). Asked about the proposal to distribute the

Investment Reserve to members, she said this was "the backstop proposition that ensures that the cash is there, should there be a need, in order to support members" (Q55).

In its report published on 29 April 2021, the BEIS Committee called for a change in the surplus sharing arrangements and an immediate uplift in mineworkers' pensions, to be funded by a transfer to the scheme of the funds in the Investment Reserve:

> The Government should also relinquish its entitlement to the Investment Reserve, and transfer the £1.2bn fund to miners, to provide an immediate cash uplift to former miners.
>
> The Mineworkers' Pension Scheme report finds that, given the strong financial performance of the Mineworkers' Pension Scheme, and the "vast sums" which have been paid to the Government, it is "unconscionable" that many of the Scheme's beneficiaries are struggling to make ends meet.
>
> The Committee's report examines the Scheme's controversial 50:50 split surplus sharing arrangement and notes that "allowing the arrangement to continue would appear antithetical to the Government's stated aim of redressing socio-economic inequality and 'levelling up' left-behind communities".
>
> The arrangement was agreed in 1994 in return for a Government guarantee that the value of pensions would never decrease.
>
> The report notes that, to date, the Government has received £4.4bn in cash payments from the Scheme and is due to receive at least a further £1.9bn - at least £6.3bn in total. The Government has not paid anything into the Scheme, and the Committee's inquiry heard it is extremely unlikely that it ever will (BEIS Committee press release, 29 April 2021).

The MPS trustees said they welcomed the report and supported the recommendations within it.

The Minister is to meet the Trustees to discuss before responding to the report:

> Members of the Mineworkers' Pension Scheme receive pensions around 33% higher in real terms as a result of the current arrangements. The Business, Energy and Industrial Strategy Select Committee have made a number of recommendations which the Minister for Business, Energy and Clean Growth will discuss with the Scheme Trustees before responding to the report (PQ 1369, 19 May 2021).

A petition on the Parliament website calling on the Government to implement the BEIS Select Committee recommendation on Mineworkers' Pension Scheme has 3,575 signatures.

1. Introduction

The main pension schemes operating under British Coal: were the Mineworkers' Pension Scheme (MPS) and the British Coal Staff Superannuation Scheme (BCSSS).

The MPS is the largest, with a total of 135,900 members in 2020, compared to 48,836 in the BCSSS.[1]

Both schemes had surplus sharing arrangements put in place at privatisation. However, the arrangement in the BCSSS was brought to an end in 2015, following valuations in 2009 and 2012 which showed the scheme to be in substantial deficit (see below).

This Briefing Paper concentrates on the MPS, on which there is an ongoing campaign to change the surplus sharing arrangements.

1.1 Before privatisation

The MPS website explains the history before privatisation:

> The MPS was introduced in 1952. The Rules of the Scheme set out in detail the benefits payable to members. Contributions before April 1975 were paid on a flat-rate basis, with members paying no more than 20p per week. Benefits payable in respect of membership before April 1975 were therefore relatively small.
>
> After 1975 the contributions members paid, and the benefits that were earned, were both linked to the salary that a member received, providing a higher level of benefits as a result of the higher contribution paid. The contributions paid by a member did not cover the full cost of providing the benefits, so British Coal paid the "balance of the cost of the benefits".
>
> British Coal's contributions went up or down over time based on the amount needed to pay benefits. In the late 1980s and 1990s, many pension schemes found that their investments had performed better than expected and they had more money than was needed to pay the benefits due to members. In the MPS, these surpluses were used to give Scheme members additional benefits and to reduce the level of contributions paid by the employer.[2]

1.2 At privatisation

The Government's involvement in the Scheme began at privatisation in 1994. Until that point, the scheme was funded by member contributions and British Coal contributions.[3]

On 27 April 1994, the then President of the Board of Trade announced that comprehensive agreements had been reached between the

1 MPS Annual Report and Accounts 2019, p8 [key statistics]: BCSSS Annual Report and Accounts 2020, p 7 [key statistics]
2 MPS, History of the Scheme before privatisation;
3 PQ 253540 16 May 2019

Government and the trustees of the MPS and the BCSSS.[4] The main elements were that:

- The existing schemes would be closed to future contributions;
- The Government would take over the role as guarantor for the Scheme from British Coal. The guarantee would mean that scheme members would always receive the benefits they had earned up to privatisation, increased in line with inflation;
- 50% of the surplus in the scheme at privatisation would be used to enhance members' pensions immediately, with the other 50% being payable to the Government as guarantor. The Government's share would be left in the Scheme as the Investment Reserve and paid to it over a 25-year period;
- Scheme members and the Government, would receive equal shares of any distributable surpluses from valuations after 31 March 1994.[5]

These arrangements related to past service pension entitlements. The Act also provided for two new industry-wide schemes for future service, including 'protected person status' for transferred employees. Accordingly, the new schemes were required to provide to transferred employees benefits no less advantageous than those provided under the BCSSS and the MPS.[6]

Basis of the 50:50 surplus sharing arrangement

A valuation as at 30 September 1993, looked at the financial position of the scheme and recommended the future rate of employer contributions assuming it continued as an option scheme. It found that after allowing for the continuation of the employers' contribution reductions, £585 million of the £813 million surplus at the time (i.e. 70%) could be used to improve member benefits:

> 12.1 The joint standard contribution rate is assessed at 15.4% of earnings from 1 October 1993. With contributions at this rate, and assuming that British Coal's additional contributions for redundancies occurring on or before 31 March 1987 are continued, there is a surplus of £813 million […]
>
> 12.2 After allowing for the continuation of the employers' contribution reductions under the arrangements to dispose of the surplus disclosed at the previous review, the excess of assets over liabilities is reduced to £585 million. The available surplus may be used in a number of different ways, including benefit improvements or contribution reductions.[7]

The valuation also considered the position should the scheme be closed to future build-up of benefits (as in fact happened from end 1994). It said the assets of the scheme were sufficient to buy out its liabilities

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4 HC Deb 27 April 1994, cc 167-169W; And an exchange of letters between then Energy Minister, Tim Eggar, and the chairmen of the two schemes -Deposited Paper, 3rd series 1828

5 Ibid

6 HC Deb 27 April 1994, cc 167-169W. For information on protected person status, see Library Briefing Paper SN-06725 Pensions: the statutory override and 'protected persons', April 2014

7 Ibid

with an insurance provider but that "the size of the MPS liabilities were so large that it would be very difficult for the commercial market to absorb the wind-up liabilities."[8] However, it made no comment on what would be an appropriate surplus sharing arrangement in that event. In the letter to Rachel Reeves of 14 October 2019 Kwasi Kwarteng said:

> The Government did not obtain actuarial advice at the time of the 1994 agreement about the fairness of the surplus sharing arrangement. Agreement was reached between the Trustees and the Government following a consultation process. There had been an actuarial valuation of the scheme as at September 1993. This stated that the benefit improvements agreed by British Coal were estimated to have reduced the surplus arising at the previous valuation by 70%. However, this was not a fixed arrangement for the sharing of surpluses and the actuarial report did not comment on the appropriate sharing of the surplus.[9]

The Government did not obtain actuarial advice to inform the 50:50 surplus share:

> Stephanie Peacock: To ask the Secretary of State for Business, Energy and Industrial Strategy, if he will publish the actuarial advice on which the surplus sharing arrangement in the Mineworker's Pension Scheme was based.
>
> Claire Perry: No such advice was obtained. The arrangements were agreed between the Government, in its role as Guarantor, and the Scheme Trustees.[10]

The trustees did receive independent actuarial and legal advice.[11] In evidence to the BEIS Committee on 23 March 2021, trustee chair Chris Cheetham explained that this advice had led them "to the conclusion that the guarantee was essential." However, regarding the surplus sharing arrangement:

> There was no science behind the decision made by the guarantor, which was then imposed on the trustees, that it should be 50:50. The trustees were, essentially, faced with a fait accompli: "Take it or leave it. If you want the guarantee, it is 50:50," but there was no analysis done to support that split at the time.[12]

The actuary had addressed the question in connection with the 1999 valuation:

> The actuary did a piece of work for the 1999 valuation, which did address that question, and we are not really sure, having looked back at that analysis, that we completely understand what they did, to be honest. They used a term called "equalising cash flows" and, based on that analysis, said that they thought a fair share of surplus would be 80% to 85% to members, rather than 50:50, although, just to repeat, we are not completely sure we understand how they did that work. They say in their report that there is no allowance in there for a profit margin, which a private sector firm would look for if trying to provide a similar guarantee, or any risk premium to reflect the risks that the Government were taking. That is as close as we can find to a piece of analysis that

8 Ibid
9 Letter from Kwasi Kwarteng to Rachel Reeves, 14 October 2019v
10 PQ128727, 26 February 2018
11 Letter from Mineworkers' Pension Scheme to Rachel Reeves, 16 September 2019
12 Oral evidence to the BEIS Committee, 23 March 2021, Q2 and 3

> was prepared for the trustees that looked at the price of the guarantee.[13]

In her evidence to the Committee on 13 April 2021, Business Minister Anne-Marie Trevelyan said she understood the trustees would still make the same choice today in order to have the guarantee and that there were other aspects the trustees had requested:

> that it be a closed scheme, that the guarantee ensured no detriment, that there would be inflation-linked increases and, indeed, no interference in the investment portfolio decisions that the trustees took.[14]

Furthermore, the guarantee had supported a successful investment policy.[15]

The arrangements in more detail

In the case of the MPS, the scheme's surplus was calculated at 30 September 1993. Half of the surplus was allocated to the beneficiaries and used to improve benefits; the other half was allocated to British Coal. British Coal's unused share of this surplus became an Investment Reserve, available to make good any deficit which should arise in the fund, and protect bonus increases which were paid as part of the benefits. This Investment Reserve would gradually be transferred to the government over a period of 25 years (or such longer period as the Government might from time to time determine), with the scheme's actuary deciding how much could prudently be transferred at each triennial valuation.

In addition, any surpluses that arose in the fund in the future would be split between the beneficiaries and the government in equal shares. The Government stands as guarantor to the scheme, ensuring that it is always able to pay the benefits promised in the rules of the scheme, including the annual indexation of guaranteed pensions in line with price inflation. The remaining 50% is allocated to the scheme's bonus augmentation fund and may be used to improve benefits. The Government does not guarantee these bonuses, but should a deficiency arise in the bonus augmentation fund, it does guarantee that pensions will not fall in cash terms.

In more detail, the terms of the Guarantee for the MPS are that: [16]

- The guaranteed pension (built up before the Scheme was restructured in 1994, including benefit improvements made immediately prior to restructuring) is increased annually in line with the Retail Prices Index (RPI).
- In return for the guarantee, Government receives, over a 10-year period, a 50% share of any valuation surpluses disclosed after 31 October 1994.

13 Ibid Q10
14 Oral evidence to the BEIS Committee, 13 April 2021, Q44
15 Ibid Q45
16 *Mineworkers' Pension Scheme (Modification) Regulations 1994 (SI 1994/2577)*, Schedule, rule 26; Source: *MPS Report and Accounts 2007* (with updates from the scheme); MPS Annual Report 2014 and MPS Annual Report 2017

- The remaining 50% share is allocated to the bonus augmentation fund, and subject to the approval of the guarantor, can be used to improve benefits.
- Bonus augmentations are covered by a lesser guarantee to the extent that, in the event of deficit in the bonus augmentation fund, "standstill" comes into operation. This means bonuses can be restructured and becoming reducing amounts over time. However, the total amount of any pension payable from the Scheme cannot fall in cash terms.

To facilitate the operation of the guarantee, the MPS was notionally split into four sub-funds:

- The guaranteed fund, from which guaranteed benefits are paid;
- The bonus augmentation fund from which bonus augmentations are paid from the members' 50% share of surpluses;
- The guarantor's fund from which payments to the Government are made with its 50% share of any surpluses;
- The Investment Reserve, containing the unused balance of British Coal's share of pre-1994 valuation surpluses.

Payments are made between the different funds. To the extent that the Investment Reserve is not required to maintain benefits, it can be drawn down by Government. Initially, the intention was that these funds would be transferred to the Government by 2019. However, in 2014, the period over which this would happen was extended until 2029, with the rate of draw down is determined by the Scheme's Actuary.[17] The reason for the extension to 2029 was that the existence of the reserve was of value both to members and guarantor.[18]

In the event of a valuation surplus, 50% of the surplus in the guaranteed fund is credited to the bonus augmentation fund, where it can be aggregated with any surplus in that fund and distributed to members by way of bonus augmentations, subject to the approval of the guarantor. The remaining 50% share of the surplus in the Guaranteed Fund is credited to the guarantor's fund and released to Government as a stream of 10 annual payments.

In the event of a valuation shortfall, the shortfall in the guaranteed fund is corrected:

- Firstly, by a transfer of assets from the Investment Reserve;
- Secondly, if the Investment Reserve is insufficient to meet the shortfall, by equal transfers of assets from the Guarantor's Fund and the Bonus Augmentation Fund; and
- Thirdly, if the transfers have not been sufficient, by the obligation on Government to make direct payments to the Scheme in 10 annual instalments.

Once a transfer has been made from the Investment Reserve, the first charge on any subsequent surplus in the guaranteed fund is to replenish

[17] MPS website – History of the Scheme/the trustees' role
[18] Oral evidence to the BEIS Committee, 23 March 2021, Q14

the Investment Reserve so that it is in the position it would have been had the earlier transfer of assets to the guaranteed fund not been made.

There is no provision in the guarantee arrangements for making good a shortfall in the bonus augmentation fund. Bonus augmentations may therefore be eroded or withdrawn. The guarantee does, however, ensure that the total pension payable does not fall in cash terms. This works by reducing bonus augmentations each year by an amount equal to the index-linked increase paid on guaranteed pension in that year. This process continues until the bonus augmentations existing at the time a shortfall was shown in the bonus augmentation fund have reduced to zero. If the assets in the bonus augmentation fund are insufficient to meet the liabilities, the assets and liabilities are transferred to the guaranteed fund.

As soon as it becomes necessary to make these equal transfers, the Scheme Actuary must certify the balances in both the guarantor's fund and the bonus augmentation fund to the guarantor. If the bonus augmentation fund is greater, the guarantor is required by the terms of the guarantee to make payments into the guarantor's fund to bring it up to the level of the bonus augmentation fund. These payments are to be made in ten equal annual instalments. Any surplus in the guarantor's fund is used to top up payments already being made to Government from previous surpluses.[19]

The only other scheme with which the Government has an analogous arrangement is the Railways Pension Scheme (1994 Pensioners Section and the British Rail Superannuation Fund), for which it also acts as guarantor. These schemes each have arrangements for sharing surpluses but have not provided payments to the Guarantor.[20]

Legislation

They were provided for in the *Coal Industry Act 1994* (Sch 5) and the regulations made under it, in particular the *British Coal Staff Superannuation Scheme (Modification) Regulations 1994 (SI 1994/2576)* and the *Mineworkers' Pension Scheme (Modification) Regulations 1994 (SI 1994/2577)*.

1.3 NAO report

The National Audit Office (NAO) said that the guarantee would be of significant reassurance to pensioners:

> The Government agreed to make good any deficiencies which might arise, thus guaranteeing the solvency of the closed schemes. The guarantee would be a significant reassurance to pensioners and other members and, given the uncertainty of future investment performance and inflation, could give rise to Government payments in some future years. In return, while half of any surplus declared by the closed schemes on the basis of

[19] NAO, DTI: sale of the mining operations of the British Coal Corporation, HC 360 1995-96

[20] PQ 178494 17 October 2018; For more on the background see SN-03109 Railway Pensions Scheme (May 2019)

> future three yearly valuations is to be available to provide enhanced benefits for pensioners, the other half is to be distributed in ten equal annual instalments to the Government. In addition, the Government will receive further sums as follows:
>
> • the remaining part of British Coal's 50% share of the last valuation surplus prior to privatisation will be retained in the schemes for the time being as an Investment Reserve and will be distributed to the Government over a 25 year period:
>
> • any residual surplus will eventually be available to the Government when the schemes are wound up;
>
> • since members' benefits cannot be enhanced beyond limits set by Inland Revenue rules, the schemes, particularly the BCSSS, may be increasingly constrained in later years in making further benefit improvements out of future surpluses. This may increase the residual surplus potentially available to the Government.[21]

Binder Hamlyn, the NAO's advisers, said the Department had:

- Investigated comprehensively the options for the future provision of pensions in the coal industry;
- Consulted extensively with interested parties;
- Determined the future pension arrangements responsibly and secured good benefits for pensioners; and
- Obtained good value for money by negotiating for the Government to receive a share of future receipts (currently estimated to have a net present value of about £3 billion net of any payments by the Government because of its guarantee) arising from pensions surpluses in the existing principal British Coal pensions schemes.[22]

1.4 Payments to the Government

The Binder Hamlyn report prepared for the NAO in 1995/96 said the estimated net present value of the projected payments to the Government over 25 years was in the region of £2 billion in total from the two schemes:

> The Government Actuary's Department have carried out separate calculations which suggest that this does not appear unreasonable. Binder Hamlyn have estimated that approximately £1.35 billion relates to the surpluses which existed when the schemes were last valued prior to privatisation and the balance of £6.65 billion relates to further projected surpluses which may arise in the future. In return for the right to receive these surpluses, the Government has guaranteed pension benefits with a net present value estimated by the Government Actuary's Department to be little more than £12.5 billion in real terms as at 31 October 1994.[23]

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21 NAO, DTI: sale of the mining operations of the British Coal Corporation, HC 360 1995-96
22 Ibid, para 1.25
23 Ibid

In 2016, the then Energy Minister Andrea Leadsom explained that Binder Hamlyn had produced two figures for estimated payments to the Government from the surplus sharing arrangement – one in net present value terms (£2bn), the other in cash terms (£8bn):

> Analysis by Binder Hamlyn in 2006 for the NAO had estimated the net present value of payments to the Government (net of any payments from the Government arising from its guarantee) at £2bn over 25 years. This reflects the value at the time of the expected future net payments.
>
> The parliamentary question 125573 answered on 8 March 2007 records that the Binder Hamlyn report found that the total gross payments to the Treasury would be £8bn. This would have been both gross of any payments from the Government and also in cash terms i.e. allowing for the returns achieved on the funds before payment.[24]

A Parliamentary Answer in October 2020 explained that:

> Since the agreement was reached in 1994, the Government has received £3,111.8m as its share of surpluses. This is in return for the provision of the guarantee that ensures pensions are paid. The guarantee has enabled an investment strategy that has resulted in scheme members receiving payments 33% higher than they would have been if they received only their actual earned pension up to privatisation.[25]

In evidence to the BEIS Committee on 23 March, chair of the Mineworkers' Pension Scheme trustees, Chris Cheetham, explained that the Government was on course to have received £6.3 bn in total, taking into account an additional £1.9 bn due to be paid to it over the next few years. This compared to the Binder Hamlyn estimate of £4 billion from the MPS:

> The two schemes were about the same size back in 1994, so we can say that £4 billion of those cash flows were due from the mineworkers' scheme. The Government have already had £4.4 billion from the scheme, and there is another £1.9 billion left in the scheme, which the Government are due to receive over the next few years. That is a total of £6.3 billion, compared to an expected outcome at the beginning, based on that Binder Hamlyn analysis, of just £4 billion. As we understand it, although we have not seen this work, the Government Actuary did some analysis as well, which concluded that Binder Hamlyn's conclusions were reasonable.[26]

Another trustee, Dan Whincup, explained that this could increase:

> They are due to receive another £1.9 billion in the future. To split that £1.9 billion out, £1.2 billion relates to the Investment Reserve, and £0.7 billion relates to post-1994 surpluses— the 50% that they have not been paid yet. That is due to be paid over the next seven years. As Allen said, if there are good investment returns in the future, the Government will also benefit, as the rules stand, from the 50% surplus share. If there are good investment returns, the £1.2 billion will grow as well.[27]

Net present value and cash terms

Figures in cash terms ignore two factors: inflation and the fact the value of a future payment is lower than that of one received today. Payments in the future are 'discounted' to obtain a present value for costs in the future. These figures can be combined to obtain a present value for costs into the future. The resulting "net present value" is used to compare the costs and benefits of different projects.

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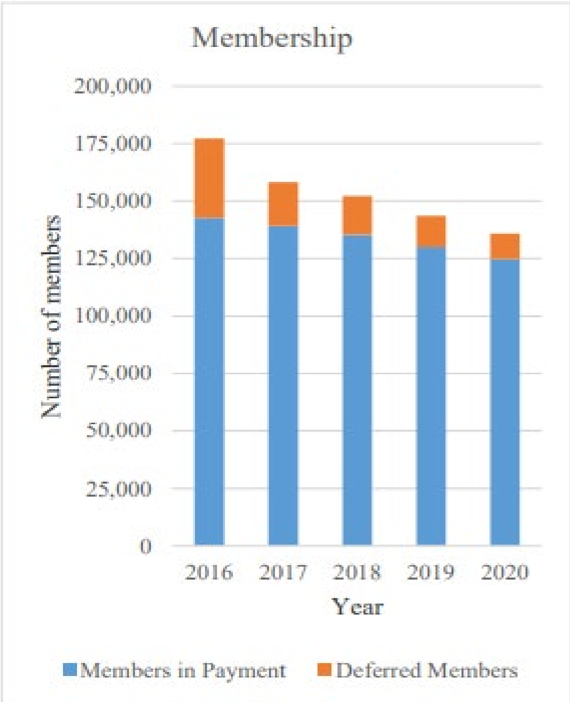
24 PQ 38959 8 June 2016
25 PQ 99709, 8 October 2020 (corrected 16 April 2021)
26 Oral evidence to the BEIS Committee, 23 March 2021, Q7
27 Ibid Q13

No payments have been made to the MPS from the Government.[28]

1.5 Membership

In September 2020, the scheme had a total of 135,900 members. Some 92% (124,796) were already in receipt of a pension, 11,104 were deferred members with preserved rights to pension benefits. The table below shows membership of the MPS since 2016:[29]



1.6 Payments to scheme members

The arrangement reached at privatisation meant that:

> The Government have guaranteed that the pensions to which scheme members were entitled at privatisation, increased each year in line with the retail prices index, will always be paid and that their total pension entitlement, including bonuses funded from the members' share of surpluses, will never fall in cash terms. This guarantee applies, and will be honoured by the Government, regardless of the value of the Investment Reserves or the solvency of the schemes at any time.[30]

As discussed below, one-off lump sum payments were made to scheme members with the lowest pensions between 2002 and 2005.

The MPS website states that, as a result, a typical member's pension is around 33% higher in real terms:

> Over the years, the Guarantee has enabled the Trustees to adopt an investment strategy that targeted high returns. The investments have generally been successful in generating excellent returns which has resulted in surpluses at some of the actuarial valuations. These surpluses have allowed the Trustees to award

28 PQ102148 15 October 2020
29 MPS Annual Report and Accounts 2020, p9 [key statistics]
30 HC Deb 8 March 2007 c2125W

> extra benefits to members, usually in the form of bonus pensions. As a result, the typical member's pension today is around 33% higher in real terms than it would have been had they received only their actual earned pension up to privatisation. These high investment returns have also benefitted the Government, via their 50% share of surpluses which are paid out over a ten year period.[31]

On the basis of the 2017 valuation, the Trustees announced bonuses – equal to 4.2% of guaranteed pensions - in each of the next six years to 2023 (bonuses beyond that would depend on the outcome of future valuations):

> • The new bonuses will provide increases equivalent to 4.2% of guaranteed pensions in each of the next six years.
> • The first bonus will take effect from 1 October this year. The five remaining bonuses will take effect at around the same time in 2019, 2020, 2021, 2022 and 2023.
> • These bonuses will be provided with certainty over the next six years and cannot be lost in that time, even if financial markets perform disappointingly.
> • Without these new bonuses, most members' total pensions would not have increased in 2018, 2019 and 2020 and potentially beyond.
> • Bonuses, and therefore increases to total pensions, from 2024 and beyond will depend on the outcome of the 2023 and subsequent actuarial valuations.
> • We have also been able to secure improved benefits for members under age 60 who have not yet retired and are in serious ill health.[32]

In 2019, the average pension from the MPS in 2019 was £84 per week – made up of a £65 guaranteed pension, and a £19 a week bonus pension. Many members received much smaller pensions that this because pensions earned for service before 1975 were small and many members had little service after 1975, when the scheme improved and because linked to earnings.[33]

As explained in a letter from the Trustees to scheme members in July 2019, under the terms of the original guarantee, the guaranteed pension increases by inflation each year and cannot be lost. The same does not apply to the bonus pension, which could go up or down (although the total cash amount of the pension would not fall):

> The bonus pension is the additional pension provide to members from the good investment returns based on the Scheme's assets. These bonus pensions depend on the future performance of the Scheme's assets and could go up, down, or stay the same. Under current rules, if the Scheme is in surplus and at a valuation, 50% of that surplus can be used to fund new bonus pensions. The other 50% is moved to the Guarantor's Fund and paid to the government over the following ten years.
>
> However, if the Scheme is in deficit, members' pensions go into 'standstill'. This means that members' total pensions would not increase. For example, for the average pension of £84 per week

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31 MPS website/history of the scheme; see also PQ 190420 15 November 2018
32 Result of the 2017 valuation, MPS website, 12 July 2018. The next valuation is in 2020
33 A letter from the chairman of the MPS Trustees to scheme members, 15 July 2019

> (shown above), the guaranteed pension of £65 would increase in line with inflation, but the bonus pension of £19 would reduce by the same amount so that the total pension 'stands still.'[34]

In November 2019, the Trustees reached an agreement with the Government that bonus pensions build up to that date would be guaranteed.[35]

1.7 The financial position of the scheme

The 2017 valuation showed the MPS to have £12,241 million in assets.[36] A surplus in the Guaranteed Fund meant new bonuses could be paid to scheme members in each of the next six years:

> **Large surplus**: Following a consultation with both your Trustees and the Government (specifically the Department for Business, Energy and Industrial Strategy), the Scheme Actuary calculated that the Scheme's Guaranteed Fund had a very significant surplus (just over £1.2 billion), and hence the potential to pay new bonuses to Scheme members. Indeed, the surplus was large enough to fund bonuses which would provide increases equivalent to 4.2% of guaranteed pensions in each of the next six years.
>
> **Bonus certainty for six years:** Given our 'stretch target' is to deliver new bonuses of this size throughout the future, the Trustees felt that this was potentially a very good outcome indeed. To enable us to be certain that we could provide these bonuses over six years, we suggested to the Government that we make a change to the Scheme's Rules which would prevent these bonuses being lost because of the 'standstill' mechanism at the 2020 valuation, even if the financial markets perform disappointingly between now and then.
>
> I am very pleased to be able to report that the Government has agreed to this proposal. As a result, we've been able to provide new bonuses that will provide increases equivalent to 4.2% of guaranteed pensions in each of the next six years, with certainty. The first bonus will be paid with effect from 1 October this year. The remaining five bonuses will be paid at around the same time in 2019, 2020, 2021, 2022 and 2023.[37]

The other half of the £1.2 billion surplus would be transferred to the Guarantor's Fund, and then be paid to Government over ten years.[38]

A letter from the chair of the Trustees to scheme members summarised the financial position of the scheme as at September 2018:

> The Scheme at 30 September 2018 had total assets of nearly £12 billion, split into four sub-funds – two of which will be used to pay members' pensions (referred to as 'Member Assets') and two which, under the rules of the Scheme, are due over time to be paid to the government (referred to as 'Government Assets') – see below:

34 A letter from the chairman of the MPS Trustees to scheme members, 15 July 2019
35 PQ120263, 23 December 2020; Letter from Rachel Reeves to Kwasi Kwarteng, April 2020
36 PQ252054 13 May 2019
37 MPS, Pensions Newsline, Summer 2018
38 Ibid

Scheme assets as at September 2018

	Assets (£m)
Member Assets	
Guaranteed Fund	7,883
Bonus Augmentation Fund	1,938
Sub-total	**9,821**
Government Assets	
Investment Reseve	1,130
Guarantor's Fund	1,028
Sub-total	**2,158**
Total	**11,979**

Source: MPS Trustee letter, July 2019

> Member Assets total just over £9.8 billion and these need to be sufficient fund all members' pensions throughout their retirement, a period estimated to last until around 2070. After allowing for future expected investment returns, £9.8 billion is currently estimated to be just enough money to pay the guaranteed pension and current bonuses throughout the life of the scheme.[39]

As at 30 September 2020, the Investment Reserve stood at £1,216m.[40]

1.8 The BCSSS

Between 1994 and September 2017, the Government received £3,119m from the BCSSS since 1994.[41]

As a result of valuations in 2009 and 2012 showing it to be in substantial deficit, the surplus sharing arrangements for the BCSSS were brought to an end, although the scheme would continue to receive the support of a Government Guarantee:

> On 13 February 2015 an agreement, hereafter referred to as "the Agreement", was signed between the Trustee and the Secretary of State for Energy and Climate Change ("the Guarantor") to amend the Scheme structure and provide certainty to members over increases to their pensions in the future. The Scheme continues to receive the support of a Government Guarantee.
>
> **Reasons for the changes**
>
> The effect of the global financial crisis on the Scheme's investment returns, together with increases in life expectancy, contributed to the 2009 and 2012 Actuarial Valuations reporting substantial deficits in the Guaranteed Fund. The deficits were eliminated primarily through the reallocation of funds from the Investment Reserve.
>
> At subsequent valuations, in accordance with Scheme provisions, the first call on any Guaranteed Fund surplus would have been to repay the debt to the Investment Reserve including investment returns on that debt. As at the date of the Agreement the debt stood at approximately £2.2 billion.

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39 A letter from the chairman of the MPS Trustees to scheme members, 15 July 2019
40 PQ 102149 15 October 2020
41 PQ 19313 20 September 2017

> The Trustee and Guarantor both agreed that the current Scheme provisions were unsustainable, as they constrained the ability of the Trustee to provide increases to members' pensions over the foreseeable future and exposed the Guarantor to volatile and uncertain cash calls.[42]

In the absence of a new agreement, the most likely outcome would have been a "long period with no increases to total pensions."[43] The agreement meant there would be increases to 2019. From 1 January 2020 all the bonuses in payment were consolidated into one total level bonus: this total bonus will neither increase nor be reduced thereafter.[44]

The MPS is in a different position to the BCSSS – with the 2014 and 2017 valuations showing it to be in surplus.[45]

42 BCSSS Report and Accounts 2014/15
43 BCSSS pensions news, February 2015
44 BCSSS Report and Accounts 2016 and 2020
45 MPS Annual Report and Accounts 2016 and 2019

2. The Conservative Government's approach

The Conservative Government has argued that the surplus sharing arrangements for the MPS have worked well, giving the Trustees freedom to invest in a way that has generated surpluses and - as a consequence - bonuses for scheme members. In October 2019, the then Energy Minister Kwasi Kwarteng wrote to the chair of the BEIS Committee Rachel Reeves to explain the Government's position and the background to it:

> The Government, as many before it, have considered whether current surplus sharing arrangements remain appropriate. The current arrangements have worked well for all parties having resulted in scheme members receiving payments 33% higher than they would have been if they received only their actual earned pension up to privatisation. The Government's share of surpluses recognises the benefits stemming from the guarantee arrangements. The guarantee ensures that:
>
> - A member's guaranteed pension, including inflation increases, will always be paid; and
> - A member's total pension (including bonus pension) will not fall in cash terms.
> - In the event of a deficit, the Government would have to find the money to ensure pensions continue to be paid, first from the Investment Reserve and its funds within the Scheme, then from the Exchequer. This is a significant contingent liability and it is fair to taxpayers to recognise this through the surplus sharing arrangements. Any income that the Government derives from the Scheme goes into the Exchequer and contributes to funding public services.
> - The estimates produced for the NAO in 1996 did indeed underestimate the extent of surpluses that would be generated. This is to the credit of the MPS Trustees and their investment strategy. Just as this has produced higher than expected returns to Government, it has also produced higher than expected bonus pensions for scheme members. However, the risk in the investment strategy has not been reduced by as much as might have been expected; this increases the value of the guarantee that the government provided.
> - Surpluses are calculated during the valuations undertaken by the Government Actuary. At that time, projections of the assets required to ensure payment of guaranteed pensions and bonuses are made. Any additional funds left in the scheme are considered surpluses. It is for the Trustees, not Government, to decide how they wish to allocate their share of those surpluses. I know they are careful to ensure both current pensioners and those yet to collect their pension benefit from those arrangements.
> - The Government did not obtain actuarial advice at the time of the 1994 agreement about the fairness of the surplus sharing arrangement. Agreement was reached between the Trustees and the Government following a consultation

> process. There had been an actuarial valuation of the scheme as at September 1993. This stated that the benefit improvements agreed by British Coal were estimated to have reduced the surplus arising at the previous valuation by 70%. However, this was not a fixed arrangement for the sharing of surpluses and the actuarial report did not comment on the appropriate sharing of the surplus.[46]

Press reports during the election campaign said that, during a visit to Mansfield in Nottinghamshire, Prime Minister Boris Johnson had "made a 'categorical' pledge that miners will soon receive their fair share of the Mineworkers' Pension Scheme."

In April 2020, in response to a further letter from Rachel Reeves regarding statements reported to have been made during the 2019 election campaign,[47] Mr Kwarteng said the Government continued to believe that the arrangements worked well for both parties. In addition to the points in his letter of October 2019, he said the Guarantee would continue to protect members' benefits from any impact on world markets due to the Covid-19 outbreak.[48]

2.1 Agreement to protect bonuses

The MPS website explains that trustees have asked the Government to change the surplus sharing arrangements, without success:

> Neither party can change the arrangements without the agreement of the other party. Since 1994, in reflection of the changing financial circumstances of the Scheme, the Trustees have asked the Government to reconsider the terms of the Guarantee, including the surplus sharing arrangements, on a number of occasions. The Government has made it repeatedly clear in its response to the Trustees' requests that it does not regard the 1994 arrangements as unfair and that it has no intention of agreeing to changes that are not in its interests.[49]

In 2019, it reached agreement with the Government to an arrangement which would protect bonuses.[50] This has now been implemented. A note on the MPS website explains what this means for scheme members:

> - Bonus pensions make up a substantial part of members' pensions. For example, at the time of the last valuation, the average pension paid from the Scheme was around £84 per week, of which around £19 per week was bonus pension.
> - As previously confirmed, following the 2017 valuation new bonuses providing increases equivalent to 4.2% of your

46 Letter from Kwasi Kwarteng to Rachel Reeves, 14 October 2019; See also PQ 164474, 25 July 2018; See also PQ 47614 21 October 2016; See also PQ11555 16 October 2015

47 Letter to Prime Minister from Rachel Reeves, 27 February 2020; Miners' pension promise in the Labour Manifesto, Yorkshire Post, 21 November 2019; 'Boris Johnson makes pledge that 'Mansfield miners will receive their fair pension share', The Chad, 16 November 2019

48 Letter to Rachel Reeves MP, 21 April 2020

49 MPS website – surplus sharing

50 PQ260581 11 June 2019; PQ 1709, 15 January 2020

guaranteed pension have been and will continue to be paid in each year up to and including 2023.

- Prior to the changes that have just been agreed, bonus pensions could then be lost or reduced if there was a deficit at an actuarial valuation in 2023 or after. In future, as a result of the changes, any bonus pensions in payment in 2023 can no longer be lost or reduced at subsequent actuarial valuations.
- Surplus sharing is not affected by the changes. As a result, should there be a surplus at the 2023 or subsequent actuarial valuations, then new bonuses will be declared.[51]

2.2 Campaign for change in the surplus share

A campaign for a review of the surplus sharing arrangements has continued.[52]

In the 2017 Parliament, an EDM in the name of Grahame Morris, with 74 signatures, called on the Government to reach a fairer surplus sharing agreement to benefit former mineworkers:

> That this House believes the Government should enter into open and fair negotiations with the Mineworkers Pension Scheme Trustees; recognises the 50-50 surplus sharing arrangement is grossly disproportionate for the Government guarantee; believes that the scheme should solely operate for the benefit of its members who contributed to the fund and worked in some of the most dangerous conditions to the detriment of their health; notes that successive governments have taken significant dividends in excess of £8 billion from the fund which would have otherwise improved the pensions and quality of life for former mineworkers; and, in view of the sums taken from the fund, calls on the Government to reach a fairer surplus sharing agreement to benefit former mineworkers.[53]

In the Westminster Hall debate on 5 December 2017, Nick Smith MP called for a change, saying "this is the miners' money. They earned it through years of hard work at the coalface, and they deserve a better and fairer share of it."[54] In response, the then Energy Minister Richard Harrington said that at the time, "all parties believed the equal sharing to be a fair settlement". Furthermore, the government guarantee had allowed the trustees to pursue a riskier investment strategy and thereby get a better return:

> At privatisation, the Government took on the role of British Coal, and the scheme had a surplus in 1994, half of which was used to enhance members' pensions immediately, with the other 50% payable to the guarantor. The Government of the day agreed to leave their share of the surplus in the scheme as an investment return. Those arrangements were agreed between the trustees and the Government in their role as guarantor—hence the mineworkers' pension scheme of 1994. At that time, all parties believed the equal sharing to be a fair settlement—this

51 Changes to the MPS that provide additional protection for members' benefits, October 2020
52 See, for example, UK Miners Pension Scheme Association Justice and Fairplay Facebook page; See also the Miners' Pension Theft
53 EDM 235 20 July 2017; see also EDM 671 14 November 2016
54 HC Deb 5 December 2017 c317WH

> arrangement did not come about in conflict or anything like that; it was agreed to be a fair way of proceeding. The Government receive their share not because of their guarantor status—that is a big issue in the financial world, because it allows a much greater risk profile than a normal pension fund could have—but also because of the contributions that they have made to the scheme to make up the pool of money[55]

In April 2019, a group of MPs wrote an open letter to the Chancellor of the Exchequer calling for stronger protection for members' bonuses and a larger share of the surplus for mineworkers.[56]

Opening a Westminster Hall debate on 10 June 2019, Grahame Morris called on the Government to renegotiate the surplus sharing arrangements. He said urgent action was needed. Many scheme members and their widows were now in their 80s or older. Pensions in payment were low, with an average of £84 pw. There was no evidence that the arrangements could be considered 'fair or reasonable':

> Incredibly, the scheme was established, and the surplus-sharing arrangements agreed, without any actuarial advice […] We know a lot more about the mineworkers' pension scheme and the associated risks that it faces than we did in 1994. If the 50-50 split represented a risk in 1994, 25 years later the risk to the Government is marginal. After a quarter of a century, they have never made a single contribution to the fund.[57]

The House agreed to a motion "instructing the Government to conduct a review of the existing surplus sharing arrangements."[58]

Following this, the National Union of Mineworkers wrote to the then chair of the BEIS Select Committee, Rachel Reeves, asking for a hearing into the issue It argued that the Government guarantee was of value and must remain in place but that the share of the surplus going to the Government should be reduced to "reflect the low level of risk it has assumed."[59] The correspondence between the Chair, the Minister and the trustees is on the Committee's website.[60]

The issue was raised again in a debate on the future of coal on 3 December 2020.[61]

2.3 BEIS Committee report

On 23 December 2020, a group of MPs representing coalfield communities wrote to new chair of the BEIS Select Committee, Darren Jones, calling for an inquiry. They drew attention to the fact that the average pension for former miners in the Scheme is £84pw and that the Government had received over for £4 bn from the scheme but made no contribution to it since 1994. They argued that funds in the Investment

55 HC Deb 5 December 2017 c319WH
56 Signed by 39 MPs on 23 April 2019
57 HC Deb 10 June 2019 c479
58 Ibid; backbench business committee debate motions are not binding on the Government
59 The NUM formally write to request a hearing into the MPS Guarantee, 9 July 2019
60 Letter from Kwasi Kwarteng to Rachel Reeves, 14 October 2019; Letter to Kwasi Kwarteng from Rachel Reeves, 1 October 2019; Letter from Mineworkers' Pension Scheme to Rachel Reeves, 16 September 2019
61 HC Deb 3 December 2020 c489 ff

Reserve (some £1.1 billion) "could provide a direct and almost immediate financial uplift to many retired miners' pensions, providing greater financial security for them and their families."[62]

In evidence to the BEIS Committee on 23 March 2021, the trustees said they would be "delighted to see any increase in the share of surplus going to members" but that a transfer of the Investment Reserve to increase pensions would be an even better outcome:

> Clearly, the trustees would be delighted to see any increase in the share of surplus going to members, and it would be a very good outcome if that were the result from this inquiry. But an even better outcome for members would be to transfer some money across from, for example, the Investment Reserve, because that would have an immediate impact on pensions and would be a certain impact, whereas a change in the surplus share, although very favourable, would lead to an uncertain impact, because we would not know how much members would benefit by until we got to the valuation in 2023 and then in 2026, and so on.[63]

In her evidence, Minister for Business, Energy and Clean Growth, Anne-Marie Trevelyan, said she understood the trustees would still make the same choice today in order to have the guarantee and that there were other aspects the trustees had requested:

> that it be a closed scheme, that the guarantee ensured no detriment, that there would be inflation-linked increases and, indeed, no interference in the investment portfolio decisions that the trustees took.[64]

Furthermore, the guarantee had supported a successful investment policy.[65] She said the Investment Reserve was a "backstop proposition that ensures that the cash is there, should there be a need, in order to support members."[66]

In its report published on 29 April 2021, the BEIS Committee described the 50:50 surplus share as "arbitrary," the Government having undertaken "no empirical analysis or evaluation to inform or support the 50:50 split it proposed" at privatisation. It did not think the split was justified by the level of risk the Government faced as guarantor:

> 7. We recognise that the Government's guarantee is important, has contributed to the success of the Scheme, and has benefitted Scheme members. However, we are not convinced by the Government's argument that its entitlement to 50% of surpluses is proportionate to the relatively low degree of risk it actually faces in practice. The number of Scheme members and the relative size of the fund has fallen significantly since 1994. Yet, the Government's 'price' for the guarantee has not been adjusted to reflect that fact. With no formal period review mechanism built into the agreement, pension members remain tied to an expensive arrangement. (Paragraph 46)
>
> 8. Given that the Scheme has continued to produce strong returns despite the 2008 Financial Crisis and the COVID-19 pandemic,

62 Letter to Darren Jones MP, 23 December 2020
63 Oral evidence to the BEIS Committee, 23 March 2021, Q37
64 Oral evidence to the BEIS Committee, 13 April 2021, Q44
65 Ibid Q45
66 Oral evidence to the BEIS Committee 13 April 2021, Q55

> there is little reason to believe the Government will be required to pay into the Scheme before it is wound-up. Even if, in extremis, the Government is required to financially contribute at some point in the future, realistically its contribution will not come close to the (at least) £6.3bn it is currently due to receive in total. (Paragraph 47)[67]

It called for a review of the surplus sharing arrangements:

> 11. The Government is disingenuous in claiming the Trustees are content with the terms of the current arrangements. The Trustees have been clear that they are not - and never were - happy with the terms, and that they would welcome any changes in members' favours. The Government should not mistake the Trustees' acceptance of the deal for contentment. (Paragraph 53)
>
> 12. We are disappointed by the Government's dismissive approach to proposals to review the existing arrangement. The Minister's claim of openness is contrary to the approach successive governments have taken since 1994. *The Government must approach any future discussions with the Trustees with a genuinely open mind, and with the best interests of the pension members in mind. (Paragraph 54)*
>
> *13. With the benefit of hindsight, it is clear that the Government has already profited greatly from the Scheme. The Government must acknowledge that continuation of the arrangements in their current form deserves a review and a better outcome for pensions should be found. The current arrangements should be replaced with a revised agreement in which the Government is only entitled to a share of surpluses if the Scheme falls into deficit, and the Government has to provide funds. In that event, the Government should be entitled to 50% of future surpluses up to the total value of the funds it has provided to make up any shortfall. Such an arrangement takes account of the vast funds the Government has received thus far and the significant reduction in the risk it faces, and would ensure that neither party will be out of pocket in future. (Paragraph 58)*

It also called for a transfer of funds from the Investment Reserve to the scheme to enable an immediate uplift in benefits:

> ***We recommend that the Government hands the £1.2bn it is due to receive from the Investment Reserve back to miners, and sets out its proposals for how and when this will be administered in response to this report.***[68]

It did not accept the Government's argument that this "can[not] be justified", and that doing so "would remove the buffer in the Scheme and increase the risk of needing to find new money in the event of a deficit."[69] It also rejected the Government's argument that a transfer would be inappropriate because that the money in the Investment Reserved "was originally British Coal's money, not that of Scheme members." It said this assertion was challenged by those who gave evidence to the Committee:

> Many argued that they paid their "dues" into Scheme during their working lives on the "promise" that doing so would provide security and a decent retirement for them and their families.

67 Mineworkers' Pension Scheme, BEIS Committee, 29 April 2021, Conclusions and recommendations
68 Ibid
69 Ibid, para 60

Moreover, as the Trustees explained: "there is no [comparable pension scheme] where sponsors take money out of the scheme that they are responsible for; indeed, they cannot. Regulations do not enable it." Changes to pensions legislation since the Scheme was privatised now place restrictions on the refunding of surpluses or assets to employers.

62. Therefore, who the fund technically or notionally 'belongs' to as a consequence of the privatisation process will be immaterial to many we heard from. The fund is ultimately composed of and derived from the deferred wages paid into the Scheme by current retirees, on the understanding that they would be the ones to benefit in retirement. Many pension members will thus consider the Government to have a moral obligation to ensure the best possible outcome for beneficiaries, and that it is therefore "failing" in its "duty of financial care" as guarantor by continuing to withdraw funds from the Scheme. As one pension member put it: "the people who paid in are the ones who should benefit, it really is as easy as that."[70]

70 Ibid, paras 60-63

3. The Labour Government's approach

3.1 Campaign for a review

The Coalfields Communities Campaign (CCC) is a national campaign to defend and promote the interests of communities affected by change in the coal mining industry. In 1999, it published a report, *It's the miners' money*, which argued for a review of the surplus sharing arrangement:

> The guarantee was struck on actuarial advice. Hindsight may have shown that the advice was too cautious but that is now history. The point is that the funds are in a robust financial position and under the current arrangements the Government has no real liability. The fears expressed at the time of privatisation no longer carry the same weight.
>
> No-one is suggesting that the guarantee should be abolished. It provides security for the pensioners, and a greater degree of freedom in the funds' investment strategy. No-one is suggesting either that the Government should receive nothing in return. What is at issue is the reward which the Treasury receives for providing the guarantee. At a 50% share of an unexpectedly large surplus it is too much.[71]

The report also pointed to the low level of pensions payable from the MPS, due to the fact that the scheme had not become earnings-related until 1975. According to the CCC, the average pension within the scheme was £38 per week at that time.

The CCC argued that a greater proportion of the surplus should be retained by the schemes to help the poorest pensioners; it also advocated increased investment in coalfield communities. Any surplus paid to the Government from the pension funds is returned to the Consolidated Fund (the Government account into which most revenue from taxation and other money payable to the Exchequer is paid).[72] However, the Government has referred to these surpluses on previous occasions when allocating money to coalfield communities. In December 1998, a DETR press release said that £350 million was to be allocated to coalfield communities and of this sum "£10 million…will be an endowment which recognises the surpluses that the government has received from the miners' pension funds."[73]

Initial response

The Government made an initial response to the CCC's campaign in December 1999. The then DTI Minister Helen Liddell summarised payments to and from the scheme so far:

> Since 1994 the DTI has paid almost £400m to cover pre-privatisation deficiencies, and has received £519m as its share of

[71] CCC, *It's the miner's money! Miners' pension fund surpluses and the Treasury's windfall*, 1999

[72] HC Deb 19 April 2004 c67W

[73] DETR press release, *Multi-million pound package for the coalfield communities*, 1 December 1998

> post-1994 surpluses. The remaining surplus has been used to increase mining pensions by 20% over and above inflation.[74]

She said the guarantee arrangements were the envy of other mature pension schemes:

> The guarantee arrangements are for the long term. But recent surpluses must be considered against earlier large deficits, which the Government continues to fund and which, conceivably, could happen again.
>
> The present arrangements were negotiated at the time of privatisation. They are the envy of all other mature pension schemes, and we should be cautious about any re-shaping of them. Retired miners are getting a good deal. Their pensions have increased by 20 per cent in real terms since privatisation. But security of their pensions is also important to miners and important to me."[75]

However, she was willing to consider creative suggestions for building on the 50:50 sharing of surpluses:

> "There may be other ways in which Government and Trustees can build on the present 50/50 sharing of surpluses. Perhaps a more ambitious investment strategy or an extension of the guarantee would provide more opportunities. We will continue to work constructively with the Trustees in exploring how to generate continuing growth in pensions benefits."
>
> "This Government shares the aspirations of the coalfield communities to develop new jobs and infrastructure as mining declines. The DTI are working closely with John Prescott and his team on this." However, she noted that it would require primary legislation to divert the pension fund surpluses for this purpose.[76]

However, in a written answer in June 2000, the Minister said the DTI had "no statutory powers to divert pension surpluses for regeneration."[77] In more detail, she said:

> Since 1994, the DTI has acted as guarantor to the former British Coal pension schemes. In doing so it underwrites 100 per cent. of any downside risk to guaranteed benefits in the event of scheme deficits. The guarantee means that basic pensions will always rise at least in line with inflation and will never fall in cash terms. In return the Government receive 50 per cent. of any actuarial scheme surpluses--the remaining 50 per cent. being available to the scheme Trustees for distribution among their memberships. The Government have no plans to re-open the guarantee arrangements, but it is discussing with the Trustees whether there are opportunities to build upon them to the mutual benefit of Scheme members and Government.[78]

Michael Clapham MP put down EDMs in support of the Coalfields Communities Campaign in the 1999/2000 and 2000/01 sessions,[79] and

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[74] DTI press release, *Statement by Helen Liddell on coal miners pension funds*, 8 December 1999

[75] Ibid

[76] Ibid

[77] HC Deb 5 June 2000 c 108W

[78] HC Deb 25 May 2000, c 595W

[79] EDM 264 of 1999-2000 and EDM 184 of 2000-1

John Cummings MP put down an EDM in the 2001/02 session which attracted 68 signatures. The motion read:

> That this House recognises that the 50 per cent. clawback by the Government of any surplus of the Mineworkers' Pension and Superannuation Scheme is grossly unfair; and invites the Government and the trustees of the Pension and Superannuation Scheme to enter into negotiations and agree upon a more just appointment of the surplus and so enhance the pensions of thousands of retired mineworkers and widows.[80]

The actuarial valuation of the MPS published in September 2000 disclosed a surplus of £1,050 million to 30 September 1999. The Minister said that the scheme trustees and government had agreed that the bulk of the members' share of the surplus would be used to provide a 9% increase in pensions in payment and deferred pensions.[81]

Sacked miners

On 11 December 2001, the new Energy Minister, Brian Wilson, announced that some of the miners dismissed during the 1984/85 miners' strike and not re-instated would be given enhanced pension rights. The cost would be met from the residual assets of British Coal:

> **Mr. Kevan Jones:** To ask the Secretary of State for Trade and Industry if she will make a statement on the pension rights of miners dismissed during the 1984-85 strikes. [22728]
>
> **Mr. Wilson:** Following the consultation process last year, I am persuaded that a number of miners dismissed in connection with the 1984-85 strike, and not subsequently re-employed by British Coal, were harshly treated.
>
> I have concluded that the most appropriate way forward would be to enhance the pensions of these miners in recognition of the years of further service they lost as a result of British Coal's decision not to re-employ them. The costs of this will be met from the residual assets of British Coal. I would emphasise that those whose offences involved serious acts of violence or intimidation, or actions which jeopardised the safety of others will not qualify for this enhancement of pension. […] [82]

Apparently, of the 1,000 or so miners sacked in connection with the strike, only 335 were not subsequently re-employed. They would be eligible for a 5-year enhancement to their pensions, as long as this did not increase their service over the maximum.[83]

Review of the arrangements

In a response to the Coalfield Communities Campaign in January 2002, the Government announced that it would pay one-off lump sums to those with low pensions built up when the scheme was flat-rate:

> I am pleased to announce a new, additional benefit for members of the mineworkers' pension scheme on the lowest incomes, at a cost of £90 million. This will be funded out of the Government's share of the scheme's reserves.

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[80] EDM 149 of 2001/02
[81] DTI press release, *Liddell welcomes boost for miners' pensions*, 8 August 2000
[82] [HC Deb 11 December 2001, cc 759-760W]
[83] [HC Deb 10 March 2003, c 12W]

> The package will help mineworkers' pension scheme members who have only very modest miners' pensions, despite many years of service to the industry before 1975. Help for that particular group was identified as a priority in discussions with the scheme's trustees. Now, thanks to gains in the scheme's value under the Government's guarantee, the Government and Trustees have agreed a package of benefits, which includes special one-off payments for up to 66,000 of these members, alongside the 9 per cent. bonus for all members agreed earlier this year.[84]

Secondly, there would be a review of the guarantee arrangements made at the time of privatisation:

> […] both the Government and the Trustees recognise that there have been changes in circumstances since 1994. They have therefore agreed to explore how these changes might best be reflected in revisions to the 1994 arrangements which would benefit members. In doing so, they recognise that any revisions will need to be based on an equitable sharing of risks and reward between the schemes and the Exchequer, and will need to be sufficiently robust to operate satisfactorily in a wide variety of conditions.[85]

This announcement was welcomed by coal communities. An Early Day Motion, in the name of Jeff Ennis, MP, welcoming the changes announced by the government received 81 signatures:

> This House welcomes the £90 million scheme recently announced jointly by the Government and Trustees of the Mineworkers Pension Fund to provide additional benefits for retired miners on the lowest pensions; recognises the urgent need for the Government to re-visit the issue of the MPF surpluses with a view to the Government taking a smaller share of the surpluses, leaving more for the pensioners.[86]

Between 2002 and 2005, one-off lump sum payments were made to scheme members with the lowest pensions who had left British Coal before or shortly after 1975. Members who were on less than £20 per week with at least five years' service received one-off lump sum payments of around £2,000.[87] Chris Kitchen, General Secretary of the NUM said

> They were asking if there was any way they could refuse the payment or give it back, because people on those low incomes were on pension credits, council tax rebates and things, and some of them were worse off after receiving that benefit than they had been, because the Government saved money by not paying the pension credits.[88]

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84 HC Deb 17 Jan 2002 c417W
85 HC Deb 17 Jan 2002 c417W
86 EDM 711 of 2001/02
87 Oral evidence 23 March 2021 Q18; Brian Wilson, Westminster Hall debate on the MPS, HC Deb 10 June 2003, c 189WH and HC Deb 7 January 2003, c 154W
88 Ibid

Progress

A statement on the DTI website on 10 December 2002 said that the fall in world stock markets could have an adverse outcome for the schemes. Discussions would continue:

> Since [the 17 January 2002] announcement was made there have been radical changes surrounding pensions. The large fall in world stock markets is having a major effect on investment performance, and may have an adverse outcome on the next actuarial valuations of the British Coal Schemes.
>
> Therefore the discussions will continue, and will focus on considering possible different methods of paying for the guarantee. We will also be exploring the scope to extend the Guarantee to cover bonuses created from the recent years' strong investment performance. This would enable the Trustees to secure the bonuses within members' overall pension entitlements.
>
> These negotiations will be technical, and will rely largely on advice from actuarial experts. They will take time, because they are complex and both sides need to be sure that we get them right. But the principles remain unchanged – a fair and equitable sharing of risk and reward in the interests of both Scheme members and taxpayers, and an agreement which is robust and sustainable.
>
> In the meantime, the Government and Trustees have agreed various specific measures, which will put the Schemes on a sounder footing. These include making clear the rules on 'standstill', whereby pensions are protected in cash terms if the schemes go into deficit – which will now apply to all members, including those not yet in receipt of their pension. We have also agreed to discuss extending the lifetime of the Investment Reserve - which is both an asset within each fund to generate future returns to for pensioners, and provides the first line of Government funding in times of deficit - beyond the 25 years agreed in 1994.[89]

Coalfield Communities continued to urge a change in the surplus sharing arrangements. An EDM put down by Michael Clapham in the 2002/03 session attracted 83 signatures:

> That this House recognises that the Treasury is finally proposing new ways of guaranteeing miners' pensions for the future but, according to the Coalfield Communities Campaign's latest calculation is still due to take £3.5 billion historical surpluses out of the two schemes at a time when many retired miners are struggling to make ends meet; and requests that Her Majesty's Government give consideration to leaving more of the past surpluses with the schemes to be used to increase pensioner incomes and also introduce a fairer division of future surpluses in accordance with the recent asset and liability study recommendation, whilst continuing to provide support to help renew and rebuild mining communities.[90]

On 7 March 2003, Mr Wilson said there would be no change to the 50:50 surplus-sharing arrangement:

> Against the background of large falls in world stock markets, which continue to have a major effect on investment

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89 DTI website, British Coal Pension Schemes, 10 December 2002

90 EDM 744 of 2002/03, 13 February 2003

> performance, the trustees have been advised that the Government does not feel it would be right to adjust the current 50/50 surplus sharing arrangements.
>
> A number of other changes to the Guarantee arrangements have been agreed. In addition, discussions were to have continued to consider different methods of paying for the Guarantee and other ways of guaranteeing bonuses, where these different methods might offer advantages to Scheme members whilst not representing a significant additional burden on the taxpayer. However, NACODS South Wales have instigated a Judicial Review concerning the Guarantee to which the Government is obliged to respond. As a consequence, until this has been resolved, the Government does not feel it would be right to continue those discussions with the Trustees. [91]

David Parry of the CCC was reported to have said that the asset and liability study suggested that the fair payment for the solvency guarantee should be more like 15% to the Government, leaving 85% of any surplus in the scheme.[92] But in June 2003, Brian Wilson, the Energy Minister, described this split as "off the radar screen in current circumstances".[93]

In a Westminster Hall debate on 10 June 2003, Anne Picking described the surplus-sharing arrangement as a "legalised but grossly immoral raid on the funds":

> The Government have taken about £400 million a year at the same time as some miners are being paid a pension of less than a fiver a week. As hon. Members know, there are taxi drivers in London who would look down their noses at a fiver tip, never mind a fiver pension. I therefore say to my hon. Friend the Minister that it is time to stop patronising these proud people and to give them back their money.[94]

The Minister responded that the guarantee had worked effectively for scheme members:

> There was a different perspective on the matter in 1994, and even if the figure was based on small-c conservative actuarial advice, it was based on actuarial advice, to which everyone had to sign up. In return for a safeguard, the trustees freely entered into an arrangement whereby any future valuation surplus would be split 50:50 between beneficiaries and Government. In providing that guarantee to the two schemes, the Government accepted a pretty massive contingent pension liability, which has been valued at £16 billion. The other side of the coin was that, even if there was no return on investment or there was a deficit in the scheme, as at present, miners' pensions, as at privatisation, would always rise in line with inflation and would never fall in cash terms.
>
> No one has mentioned today that that guarantee has not only been met but comfortably exceeded since 1994. The current arrangements have yielded bonus increases on guaranteed benefits totalling about 30 per cent. since 1994, which is a significant increase in such a relatively short time. Those bonus increases are separate from, and additional to, the inflation-linked

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91 HC Deb 7 March 2003, cc 1278-9W
92 "Pit stop for miners?", *Guardian*, 22 March 2003
93 HC Deb 10 June 2003, c 186WH
94 Ibid, c 171WH

> increases that are applied to pensions each year to maintain their real values. By any objective analysis of what has happened, the guarantee has worked effectively for members of the scheme. I understand all the concerns about where the other 50 per cent. went, but it should be acknowledged that if the guarantee had not been in place, it would not have been possible for the trustees to make the high-risk, high-return investments that have led to the bonuses being paid.[95]

3.2 Further questions

Valuations of the schemes in 2002 and 2003 found both schemes to be in deficit, calling the government guarantee into play. This resulted in £350 million being transferred to the MPS and £220 million to the BCSSS from their respective Investment Reserves to ensure members' guaranteed benefits were paid. [96]

Valuations of the MPS and BCSSS in 2006 showed both schemes to be in surplus. Under the terms of the guarantee, the first call on this surplus was restoring the level of the Investment Reserve. After that, the surplus was divided equally between scheme members and the guarantor.[97]

The terms of the government guarantee were again questioned, with the trustees making representations that the Investment Reserve should be repaid over a longer period than the 25 years originally intended.[98] However, the Government said it would not change the guarantee arrangements:

> The equal division between beneficiaries and Government of periodic surpluses in the Mineworkers' Pension Scheme is a fundamental element of the arrangements established in 1994 whereby the Government provides an insolvency guarantee to the scheme. These arrangements are not time limited. Although my officials are in regular dialogue with scheme representatives on a range of issues, I have no immediate plans to meet the trustees.[99]

The then Energy Minister, the late Malcolm Wicks summarised the bonus payments made to scheme members since privatisation.[100] He also outlined payments that had been made to the Government and how these related to the original estimate made by the NAO.[101]

The Treasury Select Committee noted that there was controversy regarding the way in which the schemes had been valued and recommended that the Government Actuary make a statement addressing the potential risk to the taxpayer:

> 150. There are those, such as pensions consultant John Ralfe, who contest the method of valuation used by GAD. They argue that if

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95 HC Deb 10 June 2003, c 187WH

96 Mineworkers' Pension Scheme, *Report and Accounts 2007; British Coal Staff Superannuation Scheme Report and Accounts 2006/07;* HL Deb 6 November 2003, c WA 146; BIS website: Coal Pensions: The Former British Coal Pension Schemes

97 BCSSS, *Pensions News - Summer 2007*

98 BCSSS pensions news, Winter 2006/07; Mineworkers' Pension Scheme, *Pensions Newsline,* Spring 2007

99 HC Deb, 22 Feb 2008, c1032W; See also HC Deb, 8 March 2007, c2138W

100 HC Deb, 8 March 2007, c2137W

101 HC Deb, 8 March 2007, c2138W

alternative valuation methods are employed the scheme appears to be in deficit and thus represents a liability for the British Taxpayer. As a relatively recent appointee, Mr Llanwarne admitted that he had not been involved in the valuation of the miners' pensions but he maintained that:

1. There is not one unique number as to what the surplus is or not. What is critical about this pension scheme is that the way in which the valuation is done is set out in specific legislation relating to it as to what you do, how you calculate the surplus and it is reasonable to do that because, unlike the private sector, where it is absolutely critical that you get things in balance between your assets and your liabilities, this one has the underlying government guarantee which makes it quite different. When someone asks whether the surplus is this or that, I will say to you that if you do your calculation on one basis you get that surplus, if you do your calculation on another basis you might get another surplus or a deficit.

151. We note the controversy surrounding the valuation of miners' pensions and recommend that the Government Actuary's Department issues a statement addressing the risk of future liabilities being faced by the ultimate guarantor of these schemes, the UK taxpayer.[102]

[102] Treasury Select Committee, Administration and expenditure of the Chancellor's departments 2007-08, January 2009; The requested statement was provided in the 2008 valuation for the scheme, which has not been published.

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