

A DISCRETIONARY "JOURNEY"

You will be aware by now that several of us have been active over the last 18 months, working with the Pensions Ombudsman's Office in London to challenge the failure of HP, since the Digital Pension Fund was merged with the HP/UK Pension Fund in 2006, to award any *Discretionary Increases* to pensions in payment (with the exception of just 1% in 2008). I am one of the five pensioners who decided to take this action and now feel that I should share my experience and conclusions with the HPPA membership. This exercise gave me a full 18 months of concentrated activity, with each of us working independently whilst at the same time being aware that others were in a similar process with the Ombudsman's office. The activity level can be measured in terms of average 20 hours per week, hundreds of pages and e-mails and hours of telephone discussions. I do not regret any of this since I feel that some progress has been made – but I do admit to feeling rather exhausted! There were other aspects to my Complaint, however the key one was this failure to provide discretionary increases to pensions in payment. My decision to enter the Complaint process was taken after many direct attempts over several years with HP in the UK to get answers that enabled an understanding of the reasons for the now annual decision not to award any discretionary increase to pensions in payment.

I joined Digital in Ayr in 1980 as Plant materials Manager and then moved to Reading to head up the UK group of a worldwide organisation responsible for the design, manufacture and delivery of customised and special systems. Initially we were known as CSS evolving into one of several European Solutions Centres with a focus on Systems Integration and the support services.

I retired from Digital in 1992 and today I now belong to the *family* of "HP Pensioners" in the *group* defined as "Digital Section" and within that the *sub-species* called "Pre '97".

It is this Pre '97 'sub-species' that is particularly hard hit by the attitude and approach of HP towards it's UK retired employees. I am certain that many in this group will be unhappy with the way they are now being treated by HP. With the new legislation introduced by the UK Government in 1997 anyone retiring from that date became eligible, by law, to a defined (but small) minimum annual increase to their pension. This does not apply to anyone who retired prior to 1997. It is important to remember that these increases are a legal requirement and, as such, are not discretionary increases. **HP pensioners in the Pre'97 sub-species therefore do not get any annual increase in their pensions.** So, we in this group, are especially angry with HP and are not happy members of the HP/UK pensioner family. Quite frankly, we feel neglected.

Today, and for many years, no HP UK pensioners are getting discretionary increases to their pensions either annually or at any time. The 1997 legislation was introduced by the Government in recognition that pensions, so far as possible, should keep up with living costs. Some companies, such as HP/UK, took advantage of this change as a opportunity to stop giving their pensioners discretionary increases.

My Complaint to the Pensions Ombudsman was not upheld as is the case for all five of us who made complaints against HP and/or the Trustees. My determination is not going onto their web-site and also I am not allowed to discuss any specific details of the Complaint or the Determination. I do not fully understand the reasons for these constraints but the Determination does seem to leave open possible options for further action, if I so choose. As you will know, the Determination against the Complaint made by Nigel Bains is on the web site and available for your scrutiny ~~click here to~~ view

Within these constraints I share some learning and opinions -----

The Ombudsman's process only allows them to investigate complaints that go back no more than three years. Early on in the process I saw this “three year rule” as a problem, especially after discovering that the key to my complaint probably rested within the **2006 Merger Deed** and the events leading up to it.

Another surprise was to find that the Ombudsman's process is essentially non-adversarial. I found that an assertion from me that HP did something and the reply from HP was in disagreement then their word was accepted. It seems if there is any room for doubt then a decision is given “on the balance of probabilities” that what HP says is true. I found this very frustrating when knowing that at least some of the HP response was, to say the least, not accurate or misleading. Of course I only had my own skills, integrity and information to make my case.

A lot has changed since I retired in 1992 and this exercise has emphasised this many times in many different ways. Obviously I should not expect to be immune from change. But when Digital was acquired by Compaq I experienced little negative impact on the management of my Pension Plan. The problems we see today started when Compaq was acquired by HP.

Several times during the Complaint process the HP response appeared to suggest that restrictions placed on them by HP Corporate were not enabling discretionary increases to be made in the UK. I accept that there may be a need to report a decision to California but believe that the actual decision is made in the UK. As an example, along the way I came across somebody who had taken their anger over not getting increases, to Corporate level, after receiving no support from the UK. The response they got, by e-mail, was “your problem rests with UK Management”. The Complaint exercise has left me feeling the same way. Also for such a successful, profitable and visible Corporation I cannot believe that this is simply a financial issue.

I fail to understand how HP as a worldwide, highly visible and very profitable company is apparently happy to ignore the needs and potential value of their Pensioner community in the UK. We are told that we are an integral part of success in the market place, that we are potential customers and we are asked to consider joining company supported community projects. From my perspective these statements come primarily from California and are not strongly supported in the UK. It is clear to me that HP, especially in the UK, do not really consider their pensioners in this way. Personally I do not feel valued or integrated into the HP family or even want to be a customer. It seems to me that HP in the UK is failing to appreciate that the way they treat their pensioners does impact their credibility with the local community and probably in broader business activities. The HP pensioners have professional and social contacts and many are still active in business. As a result of the Complaint process I am left with the opinion that this impact is understood by HP in America but in the UK it is not appreciated (or possibly even dismissed). Of course I support that public image is a role for us pensioners but to give this support we deserve more genuine attention and care from the company.

What are my conclusions? -----

*The key to why we are not getting discretionary increases resides within the **2006 Merger Deed** and specifically with the statement of “**Established Custom**” which it contains. This is the Deed that was produced to support the merger of the Digital scheme into the HP scheme.

It states that there was no “Established Custom” prior to 2006 to award Discretionary increases to pensions in payment. In fact over the period 1989 through 2006 there were thirteen such increases from Digital, Compaq and HP. **Digital and HP pensioners did not get a fair deal from this merger.** I believe that the **Deed was crafted to avoid the true history** of discretionary increases and as such **did a lot of harm to the future financial comfort for the members of the two plans.**

It is very hard for me to believe that those involved in producing the Merger Deed did not know what the history had been and this possibly explains concerns expressed by the Trustees at the time and why they were provided with an indemnity against these concerns.

Despite all the change that we have seen over the years some things have not changed. Some of the Trustees from 2006 are still in place and Pensions Management has been the responsibility of the same person since the 1990's. When the Merger Deed was produced these people must surely have known what the true history of increases had been?

*Over the years the powers and responsibilities of the Trustees have changed, especially with respect to discretionary increases. The current HP/UK management do not agree this to be the case. I know how the Trustees were involved originally and also what is stated, in the documents that were given to us at the time, regarding the role of the Trustees. I do not understand why we are told that nothing has changed.

(The recent, now familiar, communication that again told us we would not be getting any increase in 2014 adds further confusion in this area. In March we were told by the company that they "*had yet to decide.*" In July we got an e-mail from the administrators informing us that "*there will not be a discretionary increase this year*" and that this announcement was "*issued on behalf of the Trustees.*")

*However I do not feel defeated and I would like to feel an increased allegiance to HP. I have learnt a lot and certainly have a better understanding of our situation. Working with the Ombudsman's Complaint procedure has brought the causes and reality of our position much more into focus. As other opportunities come along we should continue to seek justice and a better deal and to become more appreciated by HP. I feel all of us should voice our concerns and get involved. We are a potentially powerful group and can make a positive impact.

I hope that my actions have given a better understanding of why and how we no longer enjoy the benefit of discretionary increases since our Digital Plan became a section of the HP Pension Plan.

*If I were a Deferred Pensioner today I would certainly be thinking about and considering the options open to me when it is time to draw my pension . I would need to adjust my expectations based on the track record and the current attitude. I trusted that my plan would be managed as originally set up. But a lot has changed and who knows what the future may hold? Significantly there are the upcoming changes in pensions legislation. This will now give people at retirement more control of their pension investment with a broad and more flexible set of options.

*I certainly wish (of course with the benefit of hindsight!) that on joining Digital in 1980 I had not transferred the eligible part of my pension fund, built up whilst employed by another large American multi-national electronics company, into the Digital scheme. Although that Company has also experienced a lot of change, it has continued to pay an annual increase to my (now small) pension, at or above inflation, and they have kept the scheme fully funded

Final thoughts in closing -----

* In my rather old "Collins Concise English Dictionary" -----

the next word after "*discretionary*" is "*discriminate*" !

* I hope that one day HP will also be the acronym for -----

"Happy Pensioners" !