



# NO "SWAPSIES" FOR BARNARDO'S

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The appeal by UK charity, Barnardo's, to change the inflation benchmark of their staff pension scheme has been dismissed under a ruling by the Supreme Court.

Under the Barnardo's staff pension scheme, inflationary increases are linked to the Retail Prices Index ("RPI") until such time as an alternate rate comes into force. As part of an exercise to reduce the scheme's deficit (which, in 2015, was estimated to be in the region of £180m), the move to utilise the lower Consumer Prices Index ("CPI") rate was desired. The argument made by Barnardo's was that their scheme was worded to relate to RPI 'or any replacement adopted by the Trustees'.

The Court's reason for dismissing the appeal was made clear, the wording of the Barnardo's pension scheme only allowed a change to an alternate benchmarking rate where the present rate (RPI) had been formally discontinued, as RPI remains in force, the scheme must continue to utilise it.

In order to protect the value of a pension scheme from price inflation, the scheme needs to be linked to indexation. In practice, the link is commonly tied to either the RPI or the CPI.

For employers wishing to increase efficiency in their schemes, making a switch from RPI to CPI can lead to cost savings, as the rate of RPI is generally higher than that of CPI (in the region of 1% point). The side effect of making such a change is that this can negatively impact the value of a member's pension pot. The ability of an employer to change the rate will depend on the specific wording of the relevant scheme.

The lesson from the ruling is that the circumstances in which the Court will permit a deviation from a scheme's terms are very limited, it is considered that as the scheme documents have been prepared by legal professionals, the Court has a reluctance to interfere. The importance for employers and other pension providers to have well-drafted and concise scheme documentation is made very clear. The Pensions Team at Collas Crill have a broad range of experience in advising businesses on the establishment of and alteration to their pension schemes. The team would be happy to take you through this process.

## FOR MORE INFORMATION PLEASE CONTACT:



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