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TO: BRIGADE SECRETARIES

Dear Brother/Sister,

IMPORTANT INFORMATION ON SPLIT PENSIONS AND PENSIONABLE PAY

On 2 May 2019 Head Office issued a brigade secretaries circular containing the Firefighters' Pension Scheme bulletin 19 – April 2019.

This circular asked officials to read and make themselves aware of the two factsheets it contained 'Entitlement to a two pension award (split pension)' and 'Eligibility to join FPS'.

The first factsheet 'Entitlement to a two pension award (split pension)' is very informative and outlines how the award is applied in all circumstances with worked examples. This factsheet is attached as a reminder of this issue.

Please take the time to read and familiarise this factsheet and make sure that it is brought to the attention of your brigade committee and management.

What Is A Split Pension?

In 2007 the split pension rule, B5A, was introduced into the 1992 FPS as a means to protect final salary pay for pension purposes, if the scheme member had a reduction in pay and was not within three years of retirement.

There was already an equivalent rule in the 2006 NFPS, [Part 3, Rule 7], and it was felt a similar rule in the 1992 FPS could be of use to pension scheme members. Prior to the introduction of rule B5A members would have paid pension contributions on higher salary pay but, if they suffered a pay reduction and were outside three years from retirement, would have got no benefit from making those higher pension contributions.

It has always been incumbent on pension scheme managers to ensure members' pensions were checked to see if a split pension would offer a better pension than one based on the best year from the last three years of service.

However a recent challenge has shown that unfortunately not all brigades have ensured this is the case, and a significant number of members may have missed out on this.

Officials in at least one brigade have raised this and ensured that the pension records of retired members have been checked to see if this has been missed. This has resulted in a discovery that a significant number of retired scheme members were not afforded the best pension they were entitled to under the split pension rules. This situation is being addressed where it has been identified but there is a strong possibility that it may have been overlooked in your brigade.

There may be several reasons for pay reductions throughout a member's career that could be covered by the split pension rule.

For example

- Reductions in rank;
- Loss of flexi duty allowance;
- Loss of a weighting allowance after transferring from one service to another;
- Moving from a duty system that attracted a pensionable payment such as day crewing plus;
- Loss of training allowance

This list of examples is not intended to be exhaustive.

Does It Apply To Temporary Promotions?

Although the scheme rules have been amended in relation to the pensionability of temporary promotions, split pensions rules also apply in some historic cases.

If a period of temporary promotion took place before 1st April 2007 and continued after that date, it should be covered by the split pension rules. Similarly, where a temporary promotion took place before 1st July 2013 and continued after that date it should also apply.

The 1st April 2007 has been clarified as the date the rule came into force by a Pension Ombudsman ruling (PO-2573) in August 2014. The determination has been attached for your information.

Please note - The restrictions on temporary promotions in Northern Ireland and Scotland in relation to temporary promotions differ slightly so officials there will have to take this into account.

What about payments for continual professional development and additional responsibility allowances (CPD & ARAs)?

ARAs are not deemed pensionable and CPD is treated as an additional pension benefit (APB). Neither of these are covered by the split pension rules.

Indexation Of Split Pensions

The scheme rules were amended in 2018 to ensure indexing is applied to the first part of the split pension. The application of indexation may mean that in some cases the value of split pensions have risen at a relatively better rate than pay has risen within an affected period.

This is a further area that should be considered automatically by the brigade when split pensions are involved. However it may also have been overlooked and you should ensure that it has been considered in all cases.

Pensionable Pay

Since the recent FBU victory in relation to pensionable pay (Booth v Mid and West Wales Fire Rescue Authority; Mid and West Wales Fire Rescue Authority v Bradshaw 2019) FRAs have been advised to check whether all elements of higher pay are treated as pensionable or not. This must also include a retrospective check on previous payments.

The English Scheme Advisory Board issued a factsheet in May 2019 giving advice to FRAs in relation to pensionable pay. This factsheet has been previously circulated to officials but is attached to this circular to serve as a reminder of the issues.

The bulletin informed FRAs about the impact of the ruling and the basic principles to consider when deciding if a payment is pensionable or not. It advises them that they may have to take corrective action, which will involve reviewing all contracts and allowances to ensure that they comply with this ruling in relation to pensionability.

This bulletin outlines that this may involve making current allowances pensionable or non-pensionable based upon the principles of what deems the payment pensionable and also that this will have to include looking retrospectively at allowances.

Please ensure that you have read this factsheet and raised the issue with the appropriate brigade manager.

Will this impact on a split pension?

The impact of discovering that a retrospective payment should have been pensionable could also impact on an individual in relation to a split pension.

For example if an allowance is discovered to have been retrospectively pensionable even if this allowance is later removed the FRA should still ensure that everyone affected by this is automatically considered under the split pension rules to see if they would benefit from their entitlement to two pensions. Again it is extremely important that you ensure that this checking process is taking place in your FRA.

It is extremely important that the issues outlined in this circular are raised within your FRA as soon as possible, if they have not already been done. It is also important that they are raised at your local pension board and that the issues are followed through. In addition, it should also be raised and discussed at brigade committees.

Yours in Unity,

SEAN STARBUCK
National Officer

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