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Circular: 2022HOC0281MR

Date: 6 June 2022

To: All Members

Dear Brother/Sister

Pensions Immediate Detriment: Lodging of Claims

This Circular requires actions by affected Members

This circular is to update members on the current position regarding “immediate detriment” cases – that is, members who have already retired and who have been paid their pensions and lump sums under the terms of the 2015 Firefighters’ Pension Scheme when they should have been paid under the 1992 Scheme terms. It also applies to members who will retire in the near future and who are likely to find themselves in the same position.

As previously advised in All Members Circular 2021HOC0493MR the FBU and LGA reached an agreement 8 October 2021 which meant that the discrimination identified by the Court could be brought to an early end and not perpetuated and that all immediate detriment cases could be dealt with now, without waiting until October 2023 which is what central government proposes.

Circular 2022HOC0026MR detailed two (in the union’s view) political interventions by central government designed to stop the FRAs resolving immediate detriment claims under the MoU framework set out in the 8 October agreement.

Despite the constant and wholly unnecessary hurdles being put in place primarily by the Government but also by a number of individual FRs (but not all) to derail the MoU the Union continued to seek to resolve immediate detriment cases as quickly as possible for our members, the Union’s view is that the MoU Framework is the quickest route for our members to be paid their correct pension. Many FRAs adopted the MoU Framework and as a consequence many members benefited from having their claim for their pension to be paid in full settled within the 90 days as outlined in the Framework.

Unnecessary and Unhelpful Intervention of the National Fire Chiefs Council (NFCC)

The Union has received a scanned version (posted anonymously to our Head Office) of a secret letter sent by the NFCC to all Chief Fire Officers.

The opening paragraph of the NFCC letter to all CFOs states:

'To: Chief Fire Officers

Immediate Detriment Update

*I am writing to provide an important update on the matter of Immediate Detriment and recommend that fire and rescue services review their current policy to reflect the latest correspondence from the HM Treasury dated 23 March 2022 that clearly advises services **not** to be applying Immediate Detriment prior to legislation being in place.'* (Original emphasis of the NFCC author)

It is clear to the FBU that this NFCC letter is intended to, and will be taken by CFOs to be, an instruction from the NFCC not to pay any immediate detriment cases until October 2023, it can be read no other way as the added emphasis (bold and underlined) by the author of the letter clearly shows.

The effect of this instruction can be evidenced immediately as some FRAs who were previously paying members the pensions that they are owed by utilising the MoU Framework have now, upon receipt of the NFCC letter, withdrawn from utilising the MoU and stopped paying immediate detriment cases.

On page 4 of the NFCC letter the author selectively uses bold font again to push the NFCC position stating:

'HM Treasury's view remains that processing immediate detriment cases before all the necessary legislation is in place could give rise to significant consequences for schemes, pension scheme members and services.'

In fact, the only sentence of that paragraph quoted above that is not highlighted in bold by the NFCC author, which in itself is rather telling, is the final sentence. In order to be helpful to CFOs and FRAs the FBU has highlighted in bold and underlined the key text below which the NFCC has sought to downplay:

'Although it is recognised that the decision is for individual scheme managers.

Therefore, it is clear that our members currently suffering immediate detriment **can** and **must** in accordance with the decision of the Court be paid their pensions.

FBU Members will find it particularly galling that there are those in the NFCC who have abated their own pension and returned to their job as CFO whilst being in receipt of their full lump sum, an entitlement that the NFCC are now intent on denying to firefighters within their FRSs until October 2023.

FBU Conference met 10th – 13th May 2022 and listened with deep concern, and palpable anger, to the report given by the General Secretary in relation to the actions of the NFCC. As a consequence of the NFCC letter Conference delegates had no hesitation in unanimously supporting resolution 23. Pensions (Hertfordshire) in calling for legal proceedings to be instigated immediately against any Fire and Rescue Authority refusing to pay our members their full pension.

As a consequence of the spiteful, unprofessional and amateurish interference of the NFCC, the objective of which is to (in defiance of the Court ruling) continue the unlawful discrimination identified, the Fire Brigades Union will now register through the Courts immediate detriment claims for every FBU member who is being denied their full pension.

Members will also be mindful that this episode is a clear indication of why what is termed 'Corporations Sole' in the Fire and Rescue Service Reform White Paper is such an inappropriate step. Individual CFOs, acting under instruction of the NFCC, being given total autonomy is a hugely retrograde proposition.

Individual CFOs should let firefighters know whether they support the NFCC position of continuing to ignore the Court ruling and therefore deny them their full pensions until October 2023 or not. It is duplicitous in the extreme for CFOs to profess on one hand to support firefighters in our fight for pensions justice and on the other to actively and wilfully place those firefighters into, in some cases, severe financial hardship by denying them their full pension entitlement.

Members Required Next Steps

If you are affected by this and are not receiving the pension that you should be receiving (as previously directed by the court) please provide the following details by emailing them to: IDClaims@fbu.org.uk

1. Name
2. Address
3. Email address (please ensure that the email address you provide is regularly used)
4. FBU membership number (if not known please contact your Brigade Organiser whose details can be found here: <https://www.fbu.org.uk/contacts>)
5. Contact telephone number
6. The Fire and Rescue Service you are employed by
7. Date of retirement
8. A brief outline of your case and any details of your FRS actions and communications in respect of you not receiving your pension entitlement.

Yours in unity,

A handwritten signature in black ink, appearing to read 'Mark Rowe', with a stylized flourish at the end.

Mark Rowe
National Officer

MR/jr