



Matt Wrack General Secretary
Bradley House, 68 Coombe Road,
Kingston-upon-Thames, Surrey KT2 7AE
fbu.org.uk | @fbunational
020 8541 1765 | office@fbu.org.uk

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To: All Members

Dear Brother/Sister

Injury to Feelings Claims: Thompsons Legal Update

We write to provide you with an update in relation to the employment tribunal claims lodged on behalf of members following the Sergeant litigation in which the Court of Appeal ruled that the transitional pension arrangements introduced as part of the 2015 reforms to the Firefighters' pension scheme were discriminatory in nature and therefore unlawful.

As a matter of legal principle, the case ensured that all members who were in service on 31 March 2012 must be given the choice, when they leave of how they want their benefits earned during the remedy period (1 April 2015 to 31 March 2022) calculated. The choice is between the relevant final salary scheme or the 2015 scheme. This has been achieved through a statutory instrument implemented on 1 October 2023.

Arising out of the Sergeant litigation a claim was also made in the employment tribunal on behalf of some members, who fit specific criteria, for compensation for the upset and anger caused by members having to move scheme. They are known as Injury to Feelings (ITF) claims. As you will know these claims were previously being handled by Ivan Walker of Walkers Solicitors. However Ivan Walker has retired and is transferring his cases to Thompsons Solicitors.

Walkers Solicitors lodged claims on behalf of members in three tranches. An initial tranche of cases (now referred to as first wave claims, those not fully protected) were lodged in 2015. A second tranche of claims were lodged in 2020. These were lodged on behalf of members who had responded to our original survey and were what is known as "tapered claimants". This meant they received some protection under the transitional arrangements as a result of their age but were not "fully protected" older members whose pension provision was unaffected by the transitional arrangements. Finally a third tranche of claims was lodged on behalf of members in 2021 who had completed a survey in 2020.

All three tranches of cases are being transferred to Thompsons but this is a large-scale exercise and is taking some considerable time to complete.

However as we have made clear previously if you are in one of the three waves of claims lodged in the employment tribunal you will receive a letter from Walkers Solicitors seeking consent to the transfer of your case (if you have not done so already) which you should respond to promptly. You will then receive an email from Thompsons Solicitors with a link containing a questionnaire and a client care letter which allows you to consent to them acting for you and coming on record as your legal representative.

At the present time all the cases in the employment tribunal are stayed and not listed for a hearing. This is because Walkers Solicitors and in turn Thompsons Solicitors have been engaged in discussions with the Government Legal Department.

However those discussions thus far have only been focused on the first wave claims in 2015. It is hoped that discussions will then move on to discuss the second and third wave claims in due course.

We ask for your patience whilst these discussions continue.

Acting on the advice of our legal team the union is not able to comment in detail on any discussions as they are “without prejudice” in nature but when there is anything to report Thompsons Solicitors will write to you and let you know the position.

Please be clear Thompsons are doing everything they can to move the process forward but this is complex litigation and for a whole host of reasons the negotiations are taking time. Thompsons hope to provide an update to those members in the first wave of claims shortly. We must also warn you that some Claimants may presently think they are in the first wave of claims but are actually tapered claimants and therefore in the second wave. If you fall into that category you will again be informed by Thompsons. All it means is discussions around a possible resolution of your case will fall behind those cases being discussed at the present time.

Finally we wish to make you aware there are a small number of claims outstanding. Thompsons will be writing to anyone who falls into this category today to provide advice to you. If you receive an email informing you that you fall into this category please reply immediately so you can be provided with appropriate advice. The email from Thompsons will set out how you must respond and a deadline for doing so but we advise everyone who receives it to reply immediately.

In respect of claimants in Scotland and Northern Ireland discussions are ongoing but at present those claims remain stayed. We expect discussions on those claims to progress further once a conclusion is reached in relation to first wave claimants in England and Wales.

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