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Circular: 2025HOC0159MR

Date: 13 May 2025

To: **ALL MEMBERS**

Dear Brother / Sister

Injury to Feelings Claims: Update

This circular provides you with an update on the Injury to Feelings McCloud litigation so that you are aware of the present position.

By way of general overview, Thompsons now act for **9,516 FBU members** in Employment Tribunal claims who allege that the transitional arrangements introduced to implement the 2015 pension reforms in the Fire Service were directly discriminatory on the basis of age and caused them to be subjected to injury to feelings. As you are aware, the transitional arrangements meant that firefighters under a certain age were compulsorily moved onto the new, less favourable 2015 Firefighters Pension Scheme with either no protection at all or only limited tapered protection, whilst older colleagues were entitled to remain on the 1992 Firefighters' Pension Scheme ("**FPS 1992**").

All but 160 of these claims were brought initially by Walkers Solicitors, and Thompsons now have conduct. There are still members who have not transferred their claims to Thompsons Solicitors and until they provide consent to do so the cases cannot be transferred. Liability in the litigation was established following the outcome of the McCloud litigation in 2018, with the Government conceding in 2019 by way of ministerial statement that the public sector transitional arrangements were unlawfully discriminatory. The various claims lodged are stayed to facilitate settlement.

There are two aspects to the remedy available to claimants: (1) compensation to redress financial losses arising from the discrimination (the shortfall in members' pensions resulting from the discrimination); and (2) an award for injury to feelings to reflect the distress caused to claimants by the unlawful discrimination. The financial remedy is provided by members' pension administrators offering all those who were unlawfully forced onto the 2015 Scheme the right to return to FPS 1992 for the period 1 April 2015 to 31 March 2022 (all members moved onto the 2015 Scheme on 1 April 2022). The Government introduced regulations on 1 October 2023 requiring pension schemes to offer this choice to members. This statement should have been served on all those concerned by 31 March 2025 setting out the value of their pension at present and the value of their pension if they returned to FPS 1992 for the period the discrimination occurred. Members will then have a choice as to whether they wish to claim legacy or 2015 Scheme benefits for the period of discrimination.

A separate circular **2025HOC0121MR** dealt with the fact pension providers across the public sector have reported that in some instances they have been unable to meet the 31 March 2025 deadline due to the size and complexity of the actuarial calculations required.

The circular provided specific advice of your right to pursue an IDRP complaint if you have not received such a calculation. The FBU is informed these statements will be produced as quickly as possible and we will push that vigorously industrially in any way that we can. This matter was raised directly 1 April 2025 with the Deputy Prime Minister Angela Raynor, Minister for Housing, Communities and Local Government (MHCLG) regarding the failure of fire authorities to provide all affected members with Remediable Service Statements by 31 March 2025. The Union has received a response from the Fire Minister Alex Norris offering a meeting, and the Fire Minister is attending the FBU Conference 2025 where this matter will be discussed.

In regard to injury to feelings claims, you will be aware they comprise the following:

First Wave

The First Wave of claims was lodged in 2015 by Walkers and comprises over 5,000 claimants. The claims are lodged in four separate multiples (Male Claimants in England, Female Claimants in England, Male Claimants in Wales, Female Claimants in Wales) with 6 individual test claims in London Central ET.

Settlement discussions are very advanced in these cases and over **3,000 cases have already settled**, with the union recovering significant compensation on behalf of the members concerned. Many of the other claims are at various stages in the verification process where the government checks to ensure a claim is valid. This is a lengthy process but it a prerequisite in order for compensation to be paid. The delay is not with the FBU or Thompsons.

GLD have indicated the verification process is almost complete on the next 1,000 plus cases that were sent through as part of a second tranche of first wave claims. This would lead to a further 1,000 plus cases being resolved. Thompsons hope to update those concerned on that imminently and will do so as soon as they hear from GLD.

The remaining waves comprise the following:

Tapered Wave

The Tapered Wave comprises claimants who received “tapered protection” between 1 April 2015 and 31 March 2022. These claimants were entitled to remain on FPS 1992 after 1 April 2015 for a period calculated by reference to their age. This was done to provide some protection against the impact of the pension reforms for older firefighters approaching retirement, but who fell below the cut-off date for full protection.

These claims are currently stayed and subject to detailed settlement discussions with the Government Legal Department.

Second Wave

The Second Wave of claims were lodged by Walkers in 2021 on behalf of 2,305 individuals who predominantly completed the second survey in 2020. The claims were lodged in 47 different multiples against each individual Fire Authority. The claims are stayed and detailed settlement discussions with the Government Legal Department are ongoing.

Third Wave

The Third Wave of claims were lodged by Thompsons between late 2023 and early 2024. There are 160 claims in this Wave lodged as 39 multiples and 18 individual claims broken down by Fire Authority. The claims are stayed and detailed settlement discussions with the Government Legal Department are ongoing.

The FBU is hoping to reach agreement on all cases in the Tapered Wave, Second Wave and Third Wave as part of one overarching agreement and has made that position clear to the Government Legal Department. This means a wave by wave approach would be avoided which would cause further delay for some of the members concerned. It is also worth stressing a lot of work has already been undertaken as part of these negotiations on each wave, explaining the position of all these claimants and the particular circumstance that relate to each cohort of claims. We hope all of that work will lead to the Government Legal Department obtaining approval to resolve the litigation in regard to all those waves.

Finally, please note parallel negotiations are taking place in Scotland and Northern Ireland to reach agreement, and the Government Legal Department are liaising with their counterparts which we hope will ensure a unified approach is taken to resolving all outstanding claims.

Conclusion

The FBU is unable to comment in detail on the negotiations currently underway on these waves, but Thompsons will be writing to those concerned to give a further update very shortly. All that we can say is we are hopeful all the claims can be resolved soon and that is why the stay remains in place. Our views are reinforced in this view by the fact so many cases in the first wave have settled. On this basis the FBU would like to conclude this litigation through this process which it considers is the most advantageous strategy for the members concerned. However, this position will be kept under review.

The FBU appreciates this litigation is very long running and there are frustrations about that. However, it is also important to keep in mind what the union has achieved in challenging the transitional arrangements not just in terms of any injury to feelings compensation but even more importantly in securing a right to opt-back into legacy schemes for a further 7 years. Litigation of this scale against the government was never going to be possible to conclude very quickly and fighting through the courts further may take even longer. However much has already been achieved to protect your pensions and we will do all we can (as will Thompsons) to ensure the litigation is brought to a close as quickly as possible.

We are not at liberty to say anything more on the litigation by way of open correspondence and Thompsons will therefore write to members individually. We ask again that, once received, this correspondence is treated confidentially by the members concerned as sharing letters of this nature on social media and in public forums risks undermining the settlement negotiations and jeopardising a final deal which everyone is keen to ensure is reached as quickly as possible.

Yours in Unity,

Mark Rowe
National Officer