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Circular: 2025HOC0394MR

Date: 19 November 2025

To: All Members

Dear Member

PENSIONS: Jurisdiction of the Pensions Ombudsman (PO) Judicial Review

The FBU was recently contacted by a ROOT member who had a complaint lodged with the Pension Ombudsman in relation to a Fire and Rescue decision regarding the application of the Firefighter Compensation Scheme (FCS).

The PO, after a lengthy delay, had discontinued his investigation into our members complaint on the basis that he (the PO) does not have jurisdiction to investigate complaints about the FCS. The PO had reached this decision because of the decision in ***Clark v The Chief Constable of Derbyshire and others*** [2024] EWCA Civ 676. In that case, the Court of Appeal decided that regulation 12 of the ***Police (Injury Benefit) Regulations 2006*** was not a pension scheme for the purposes of the Pension Schemes Act 1993. As the PO only has jurisdiction to investigate pension schemes, and because there are similarities between regulation 12 of the Police scheme and the permanent disablement benefits available under rule 1 of the FCS, the PO has decided that he cannot investigate any cases brought by firefighter pension scheme members under the FCS.

The FBU seeks to challenge the PO's decision, made under Rule 16(1)(c) of the Personal and Occupational Pension Schemes (Pensions Ombudsman) (Procedure) Rules 1995, to discontinue the investigation into the Claimant's complaint on the basis that the Firefighters' Compensation Scheme fell outside his statutory jurisdiction to investigate and determine complaints into occupational pension schemes.

Following legal advice, the FBU believes that we have a claim that the PO does have jurisdiction to consider complaints in relation to the FCS. The FBU have issued a claim for Judicial Review and is waiting to hear back from the court as to whether permission to proceed is granted.

There are broad benefits to the FBU, and our members should our claim succeed. At present, no complaints in relation to the FSC will now be considered by the PO. It is plainly in the interests of our members to have any complaints about the application of the FCS considered in the cost neutral forum of the PO, rather than risk members being required to challenge adverse decisions in the civil courts with consequential costs and cost risks.

Yours in solidarity,

Mark Rowe
National Officer