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Members of the Scottish Pensions Group
Members of the Scottish Local Government Pensions Advisory Group
Scottish Public Service Unions (Local Govt., NHS, Education, Police and Fire)

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Dear Colleague

Pensioner overpayment

I am writing to you to make you aware of an issue that affects a small percentage of public sector pensioners in Scotland. This letter explains what that issue is and how it is being addressed. Because you may be contacted by public service pensioners or their representatives, I also want to explain how they can get more information or advice and suggest some actions which your organisation may wish to consider.

The Cabinet Secretary for Finance and Sustainable Growth today informed the Scottish Parliament of a problem that affects a small proportion of retired public sector employees throughout the UK. The problem concerns the way that the Annual Percentage Increase has been applied to some pensions with a Guaranteed Minimum Pension (GMP) entitlement. The problem does not affect anyone who is not currently receiving a pension.

The problem

Some pensioners who worked in the public sector have been getting a larger than expected increase in their pensions year on year. This is because of the way that annual pension increases have been paid.

Public service pensions are up-rated in April each year in line with the Retail Price Index (RPI). Occupational pension schemes pay for any up-rating before State Pension is claimed, but thereafter part of the up-rating is paid by the state scheme, depending on the GMP entitlement. In affected cases, incorrect information on GMP entitlement has been held by scheme administrators. This has resulted in interest on the GMP element being paid twice, in error – once by the pension scheme administrator and once by the Department for Work and Pensions (DWP). The problem appears to have been primarily caused by the failure of Her Majesty's Revenue and Customs (HMRC), over many years, to pass correct pensioner details to pension scheme administrators.

Number of people affected

Across the UK as a whole, the issue affects approximately 100,000 pensioners within the main central government schemes covering the NHS, Teachers, the Civil Service, the Armed Forces and the Judiciary. Collectively, this represents around 4.5% of the total number of pensioners in those schemes.

Within Scotland, 6,009 members of the Scottish NHS and Teachers scheme are affected. This total comprises 3,148 NHS and 2,861 Teacher pensioners and represents 4.8% of all pensioners across both schemes. These figures are broadly consistent with the proportion of erroneous cases existing in the NHS and Teachers schemes in England and Wales.

It is also likely that the Local Government, Police and Fire schemes in Scotland are affected. Preliminary sample work undertaken by COSLA suggests that around 4% of pensioners in these schemes may be affected. If these early results are scaled up across Scotland as a whole, this would represent approximately 4,500 pensioners from the local government scheme; 300 police scheme pensioners; and 150 firefighter pensioners.

The solution

Recovery of past overpayments

Scottish Ministers have decided that all past overpayments that have arisen as a result of this problem should be written off for the five public sector schemes they are responsible for. This means that no pensioner is required to repay any of the overpayments they have received, in good faith, as a result of this problem. A similar decision has been reached by UK Ministers for the schemes for which they are responsible.

Treatment of the overpaid amounts

Scottish Ministers believe that these pensioners should not be penalised for overpayments received in good faith and which resulted from errors which were not their fault.

However, the UK Government has decided that future pensions should be adjusted so that only the correct amount will be paid from April 2009.

For the Scottish Local Government, Police and Fire pension schemes, Scottish Ministers have a range of delegated powers. They are exercising those powers to ensure that from April 2009 the amount of overpayment currently received will continue to be paid, though it will be frozen at the current level. This means that future annual inflationary increases will only apply to the pension that pensioners are entitled to and that the overpayment element will not increase in line with inflation.

These actions will be taken forward through revisions to the scheme regulations and the SPPA will be consulting on these shortly.

For the Scottish NHS and Teacher schemes, Scottish Ministers are obliged to seek consent from Her Majesty's Treasury to any changes to the scheme regulations. They have actively sought such consent to enable them to adopt a similar solution to that being applied to affected members of the Local Government, Police and Fire schemes.

That consent was withheld. As a result we must adopt the same solution being applied by the UK Government to the schemes for which it has responsibility. This is to put the correct payments in place from April 2009. This means that the majority of affected pensioners in the Scottish NHS and Teachers scheme will receive a pensions increase which is less than expected when pensions are up-rated with the RPI in April 2009. A minority will see a reduction in their pension.

What will happen next and where can people get more information

The SPPA administers both the NHS and Teachers' schemes in Scotland. We have already written to those people who have been overpaid to explain how their pension will be put right so that it is correct from April 2009. We have explained that we will write to them again once HM Treasury have formally told us what next year's pensions increase will be. We expect that to be in the New Year, at which time we will be able to tell people what their correct pension amount will be.

We have also written to NHS and Teachers' pensioners who are unaffected, because we do not want them to worry unnecessarily about something that does not affect them.

Both letters give details of a dedicated Helpline number that can be contacted for more information. People are also being advised that more information on the problem and how it is being dealt with is available on the SPPA website (www.sppa.gov.uk). That also includes the detailed Questions and Answers material that has been enclosed with this letter.

Scheme administrators for the Local Government, Police and Firefighters' schemes will need to establish the nature and scale of the problem for their pensioners. We have written to them to alert them to this problem and to propose that they carry-out an urgent review of their records. That letter also includes advice on how that work can be progressed.

How you can help

Your organisation may be contacted by pensioners or their representatives to ask for advice. It is obviously a matter for you to decide how your organisation will deal with any queries you receive. However, in the first instance I would be grateful if you would make sure that the relevant people in your organisation have seen a copy of this letter and the accompanying Questions and Answers.

If your staff would like to provide first line help to people who will obviously be quite concerned, we suggest that the following could form part of the advice they offer:

- reassure anyone who is not an existing pensioner that they are not affected because this only affects a small proportion of existing pensioners
- reassure people that no-one is being asked to repay past overpayments
- reassure NHS or Teachers' scheme pensioners who contact you about this that the SPPA has written to them to explain whether or not they are affected by this problem

- advise any NHS or Teachers' scheme pensioners who contact you about this to contact the SPPA on our dedicated Helpline number **01896-892463**
- advise any LGPS, PPS or FPS pensioners that their scheme administrators will be looking into this and that:
 - they should not worry, because if it turns out that their pension has been affected it will not be reduced and will continue to be paid
 - that it will take time to work through this issue and that pensioners will be contacted once that exercise has been completed
 - to refer to our website www.sppa.gov.uk or to their scheme administrator if they would like more information
- remind people that, if they are unhappy with the decision, they will be able to access the Agency's Internal Dispute Resolution Process, details of which are on the Agency's website. Other schemes also operate similar dispute resolution processes, which will be available by contacting them.

A copy of the Cabinet Secretary's memorandum to the Scottish Parliament's Finance Committee will shortly be available from our website.

Yours sincerely

Neville Mackay
Chief Executive