

**FIREFIGHTERS' PENSION SCHEME
9/2010**

WHO SHOULD READ: The Chief Executives, Fife Council and Dumfries & Galloway Council
Clerks to the Joint Boards
Chief Fire Officers

ACTION: To bring to the attention of your Fire Authority Pensions managers

SUBJECT: Transfer Values; Two Pension Provisions – Index Linking; and Age Discrimination

The purpose of this circular is to:

- Advise FRAs about current problems with calculating certain transfer values; provides guidance on the index linking of split pensions; and provides an update on proposals to avoid potential for age discrimination in relation to pension contributions.

1. Problems with Transfer Value (CETV) calculations

1.1 The Heywood AXISE system, which many FRAs use to help calculate and administer firefighter pensions, has been applying incorrect TV factors when calculating certain CETVs for pension sharing on divorce. The particular problem relates to active members of the FPS 1992 who are entitled to retire with immediate payment of pension i.e. those who have attained 50 years' of age and can reckon 25 years' pensionable service. The AXISE system is currently treating these as deferred pensioners and applying the associated deferred TV factors.

1.2 CLG have made Heywood aware of the issue and they have assured them that they will correct the problem with the next release of software.

Action required

1.3 Until the updated version of the software has been released, FRAs are required to manually calculate the CETVs for pensions on divorce for all those active members who have reached 50 years of age with at least 25 years' pensionable service, i.e. those active members who would be entitled to retire with immediate payment of pension. The formula for completing these calculations is covered in paragraph 3.3.5 of the [Gad guidance](#) that is currently published on CLG's website.

1.4 In addition to the above, the AXISE system currently calculates a commutation lump sum for pension credit members of a maximum of one quarter of their annual pension. However, Rule IA2(5) of the FPS 1992 regulations restricts the commutation lump sum of a pension credit member to 2.25 x the annual rate of the pension. This will also be corrected when the next version of the software is released.



Action required

1.5 FRAs are required to carry out manual checks to ensure that all elections by pension credit members to commute their pensions for a lump sum are restricted to 2.25 times their annual rate of pension.

2. Two Pension Provisions – Index Linking

2.1 Both the Firefighters' Pension Scheme (FPS) and the New Firefighters' Pension Scheme (NFPS) provide for protection to be given to a scheme member in circumstances where he/she takes up a different role with an FRA or become entitled to a different rate of pay in his/her existing role and, as a result, suffers a reduction in the amount of their pensionable pay. In these circumstances two pensions are calculated on retirement to give a split award.

2.2 The first part of the split is based on service accrued up to the date of the reduction using the average (or "final" for the NFPS) pensionable pay before the reduction; the second is based on service from the date of the reduction up to the date of retirement using the average (final) pensionable pay at retirement. The member can elect for a single pension, based on the current rate of pay, if that would give a more favourable outcome.

2.3 The policy intention is to give adequate protection to the higher rate of average pensionable pay at retirement by index-linking the value of the first part from the date of reduction up to the date of retirement. This is done by using the Pensions Increase methodology and referring to the tables accompanying the annual Pensions Increase (Review) Order. A current value of the aggregate pension can then be established in order to allow the member to decide whether to proceed with the two pensions provision or elect for a single pension. Unless the member elects for a single pension, the split pension should be put into payment.

2.4 Although the Pensions Increase methodology is used to index link the first part of the split, it is important to note that the increase itself is not made under the Pension Increase Act. The normal qualifying conditions under the Act will, therefore, not apply at this stage. However, any subsequent increases after retirement will be in accordance with the Act and the normal qualifying conditions must apply. So, for example, if a firefighter, who is a member of the FPS, retires below age 55 and not medical grounds, the aggregate split pension will come into payment at "current value" on retirement but there will be no increases under the Pensions Increase Act until the firefighter reaches age 55.

2.5 CLG are considering whether amendment to the FPS and NFPS rules is required. In the meantime, we will amend the guidance on our website.

3. Age Discrimination – Refunds of Pension Contributions

3.1 Membership of the FPS is dependent on payment of pension contributions by an employee and the employer. CLG have received legal advice that potential discrimination arises from the fact that members of the Firefighters' Pension Scheme 1992 (FPS) who joined before age 20 must pay contributions for more than 30 years before becoming



entitled to draw pension at age 50 whereas any colleague who joined at age 20 or above would pay contributions for only 30 years before being able to draw their pension from age 50.

3.2 The position was explained in the Firefighters' Pensions Committee paper FPC (10) 1 which identified that the most reasonable remedy was to allow such members a contribution "holiday" from the point at which they reach 30 years' reckonable service until age 50. the employing authority would continue to pay contributions. At age 50 the member would be able to choose between retirement with pension or continued employment and payment of contributions.

3.3 CLG have proposed amendments to the FPS that would provide for members who are aged 48 or more to stop paying contributions on completion of 30 years' reckonable service and to recommence payment from age 50. Any contributions that were paid after 1st December 2006 (when the relevant age discrimination legislation came into effect) in excess of 30 years and before the member reached age 50 would be refunded.

3.4 SPPA are considering these proposals for Scotland. The amendments will be subject to Ministerial approval.

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