

Meeting of the Board 9 January 2020

ITEM 8

Non-Claimant Technical Discussions

Background

1. As communicated by email to the SAB on 30 October 2019, The Government recognises that changes will be necessary in order to remove discriminatory provisions from the public service pension schemes for non-claimants and ensure individuals can keep benefits they have accrued, for example where they would have been better off in the new scheme.
2. For the Fire scheme, the Home Office intends to hold the technical discussions with the SAB. The technical discussions will play an important role in helping Government identify proposals for further, formal consultation later in the year. This reflects the Government's commitment in a WMS in July to address the difference in treatment across all schemes, and to engage with member and employer representatives in this process.
3. It is expected these technical discussions will commence from January 2020 and a paper will be provided to the SAB.

Claimants and Non-Claimants

Claimants

4. Claimants are those members who signed up to the legal challenge (known as Sargeant) brought by FBU on behalf of their members against the respective UK Governmental bodies and the Employers, Fire and Rescue Authorities (FRAs) (together known as the respondents) on whether the provisions in the 2015 Fire Pension Scheme which provide protections based on age to remain in the former final salary scheme are age discriminatory.

As they were named as respondents in the case, FRAs had to submit a defence to the legal challenge. This defence has been managed collectively on behalf of the UK FRAs by the LGA under the auspices of the National Employers and decisions have been taken by a central steering group made of FRA representatives.

In December 2018 the Court of Appeal found that the transitional protections unlawfully discriminated on age and the case has therefore returned to the employment tribunal for it to determine remedy. A case management hearing was held on 18 December 2019 and an interim order was made.

Non-Claimants

Not all Fire Pension Schemes (FPS) members are claimants under the case brought by FBU and therefore these members are known as non-claimants. The Government will need to address age-based differences in treatment for those non-claimants across all the FPSs through consultation and changes to scheme rules to ensure that for non-claimants there is no unlawful treatment on the basis of age and it is expected that this will progress alongside the employment tribunal remedy process in the Sargeant case. Government have confirmed their intent to extend the same treatment to all members of the public service pension schemes, including the Firefighters' scheme, (whether claimants or not) who are in the same legal and factual position as the claimants. It is important to note that no member with relevant service will lose out.

Technical Discussions

5. In order for the board to respond to the technical discussion it is proposed that they form a small working group of stakeholders to advise them. It is proposed that the working group is drawn from the following stakeholders;

SAB stakeholders

One employee representative from each representative body (4 in total)
Employer representative (2 in total)

SAB advisers

Legal adviser
Actuarial adviser
Practitioner adviser

Employer Stakeholders

NFCC representative
HR Lead
Finance Lead

Administrator stakeholders

West Yorkshire Pension Fund (CIVICA client and administrator of large majority of FRAs)
Local Pensions Partnership (Heywood client and administrator of 7 FRAs)

Software

Heywood
Civica

Board decision

6. The board are asked to agree the cast list and to make the relevant nominations from the board.

Board Secretary
06 January 2020