



## The Professional Trades Union for Prison, Correctional & Secure Psychiatric Workers

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# POA Circular 039/2020

26<sup>th</sup> March 2020

Dear Colleagues

## **PENSION CHALLENGE - CLAIMS FOR COMPENSATION**

Please read this if you were a member of the Principal Civil Service Pension Scheme (PCSPS) or the NHS Pension Scheme (NHSPS) on or before 31<sup>st</sup> March 2012.

In circular 31/20 PCSPS & NHSPS Pension Schemes, I outlined where we now stand with regard to getting a remedy for the pension age discrimination which the Government now admits to. The major part of the remedy is to get affected members back into their old pension scheme (if it would be better for them to be in their old scheme) and that has now been achieved.

We can also claim compensation for injury to feelings and reimbursement for any out-of-pocket expenditure you had to pay as a result of what happened in 2015. Any such claim can only be made by a member who has actually filed a Tribunal claim (or for whom the POA has filed a claim).

This circular explains what these claims are for, and how to file a claim now if you have not done so (or are unsure if a claim has been filed for you).

### **Injury to feelings**

This is the label that the tribunals and courts apply to damage caused by discrimination which does not concern a direct financial loss. It means the psychological harm that has been caused – things like the upset, anger, anxiety or depression. Unlike most employment claims, compensation for injury to feelings can be awarded in a successful discrimination claim, and in most cases should be.

Employment Tribunals have a wide discretion as to the amount of compensation to award for injury to feelings, although guidelines have been given by the Presidents of the Tribunals in England & Wales and

Scotland. The minimum award should usually be in the region of £1,000. The maximum should usually be £44,000, reserved for very serious cases.

Everyone will be upset and angry about the changes that were made in 2015. Bear in mind, though, that compensation on these grounds relates to being discriminated against. What matters is that younger members were treated differently from older members – being angry that changes were being made at all is not the issue.

Some members may believe that they have suffered more than most, and if you think that applies to you, we want to give you an opportunity to let us know. We will pursue a claim for everyone for whom an Employment Tribunal claim has been made, based on the upset and anger that is common to everyone. Unless you think your case is out-of-the-ordinary there is no need to tell us.

If your case is unusual, we will investigate whether a higher claim can be made for you. Examples might be where you have felt unable to retire when you would otherwise have done so; or where your retirement planning has had to be changed because you were younger and had to transfer to the new pension scheme; or where you have become depressed because you had to transfer to the new scheme and someone else did not.

Please think carefully about this: we will make a claim for everyone whose case is broadly the same as everyone else's. We will look into cases where members think their case is unusual, but we have about 3,000 claims filed. Examining each and every claim on the basis that it might be different would obviously be very labour-intensive and time-consuming.

If you do want us to investigate your particular circumstances, please let us know. By preference, please send details by email to [nadine@poauk.org.uk](mailto:nadine@poauk.org.uk). Please put "Pension age discrimination ITF" in the header to your email. If you have to send details by post, please send them to:

Nadine Montgomery  
POA  
Cronin House  
245 Church Street  
London  
N9 9HW

### **Financial losses**

We can also pursue claims for reimbursement for any out-of-pocket expenses that you have incurred as a result of what has happened.

There may be some tax consequences that arise from the transfer to the 2015 schemes and the subsequent transfer back to the old schemes. The

Government is aware of that and is already in discussion with HM Revenue and Customs to see how any tax consequences can be avoided. In case they are not avoided, we will pursue these tax issues for everyone.

Some members may have had to incur expenditure as a result of the 2015 changes. It is difficult to guess what that might have been. One example might be that you took independent financial advice as a consequence of being moved from your old scheme to the 2015 scheme (but please note the requirement for a causative link: it is not enough to show that you took advice which you had to pay for, you have to show that you took that advice because you were told that you would be transferred to the 2015 scheme and needed financial planning advice as a result).

If you do want us to investigate your particular circumstances, please let us know. By preference, please send details by email to [nadine@poauk.org.uk](mailto:nadine@poauk.org.uk). Please put "Pension age discrimination financial compensation" in the header to your email. If you have to send details by post, please send them to:

Nadine Montgomery  
POA  
Cronin House  
245 Church Street  
London  
N9 9HW

If you have not yet made a claim, or if you are unsure if you completed the survey in 2017.

A claim for compensation for injury to feelings, or for compensation for out-of-pocket expenses, can only be pursued for members who have actually filed a claim in the Employment Tribunal (or for whom the POA has filed a claim).

If you think you completed the survey in 2017 but you are not sure:

We have a list of the members for whom claims have been filed. We cannot publish it for obvious data protection reasons, but we can check if you are on the list. If you are worried, please let us know. By preference, please send details by email to [nadine@poauk.org.uk](mailto:nadine@poauk.org.uk). Please put "Pension age discrimination check claim" in the header to your email. If you have to send details by post, please send them to:

Nadine Montgomery  
POA  
Cronin House  
245 Church Street  
London  
N9 9HW

If you know that you did not complete the survey, we would like to give you a further opportunity to do so. The survey form is back on the POA website and you will be able to access it.

<https://www.surveymonkey.co.uk/r/RP93HVD>

Please fill it in and then press “submit”.

We need to draw a line across so that we know which claims are being pursued. **If you want to fill in the renewed survey you must do so before Tuesday 30<sup>th</sup> June 2020.**

Please note that you will need to have your POA membership number to hand before you fill in the survey form.

Yours sincerely

A handwritten signature in black ink, appearing to read 'S Gillan', followed by a small dash.

**STEVE GILLAN**  
General Secretary