

Firefighters lose discrimination appeal regarding Firefighters' Pension Scheme

Background

Following mounting pressure in recent years, the pension schemes for those employed in the public sector were reformed to make them more sustainable and more affordable to the tax-payer. With the introduction of the new Firefighters Scheme in 2015 there were also some protections introduced to allow older firefighters to retain some of their previous pension benefits. Their date of birth dictated if and when they would be transferred into a new scheme (between April 2015 and March 2022).

The FBU claimed that the new scheme was discriminatory as members were required to work longer and make greater contributions into the scheme but receive a lower-value pension. They subsequently lodged a test case with an Employment Tribunal claiming that the new scheme is discriminatory on the grounds of age, race and gender, as an unequal number of women and ethnic minority firefighters are affected by the amendments.

The ruling

Whilst in a similar case the judiciary were successful in their claim against the Ministry of Justice (announced in January 2017), the employment tribunal presiding over the firefighters' appeal ruled on 14 February that the transitional protections relating to the English and Welsh 2015 Firefighters' Pension Scheme were objectively justified and do not, consequently, amount to unlawful discrimination. The proceedings in Scotland and Northern Ireland were 'stayed' (put on hold) while the parties consider the impact of the English and Welsh judgment.

Commenting on the decision FBU general secretary Matt Wrack, said: "This is obviously very disappointing. Our lawyers believed that we have a strong case and that remains their view. A differently constituted Tribunal considered a parallel claim regarding the Judicial Pension Scheme, and reached the opposite conclusion a month ago.

"We have always known that this would be a long fight and we anticipated that the case would be appealed by the Government if we had won.

"We regard the transitional arrangements, which force younger firefighters into having to work on to age 60 are totally unrealistic. We will pursue the argument for our members in whatever venue is likely to deliver us the correct result."

At the Firefighters Pension Scheme Technical meeting on 1 March, the Home Office updated attendees that the FBU will appeal the decision (as expected). No other details were given, but we will update you when we know more.

Police officers are expected to lodge their equivalent claim later in the year.

What are the possible consequences?

None. Providing the FBU are unsuccessful in any appeal they may lodge, our understanding of the 2015 scheme remains unchanged. Firefighters who don't qualify for full protection in their original final salary scheme will continue to transition into it on their expected date. This bulletin is for your information should you receive queries from firefighters unsure of the effects of the ruling.

If you have any queries, or would like to discuss further, please contact the Technical Team at the address below.

Contact Kier Pension Unit

Post: PO BOX 485, Middlesbrough TS1 9EE

Telephone: 01642 727030

Email: penemp@kier.co.uk

Website: www.myownpension.co.uk