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Dear Colleague

**SCOTTISH FIRE AND RESCUE SERVICE CIRCULAR No 1/2009**

**FIREFIGHTERS PENSIONS SCHEME (FPS)**

**NEW FIREFIGHTERS PENSION SCHEME (NFPS)**

**1. Introduction of Employment and Support Allowance (ESA).**

- 1.1 From 27 October 2008, ESA replaced Incapacity Benefit and Income Support paid on incapacity grounds although existing customers will initially continue to receive Incapacity Benefit, as long as they continue to satisfy the entitlement conditions.
- 1.2 There are two elements to ESA. One is a contribution based allowance ESA(C), where the individual has paid sufficient National Insurance contributions. Otherwise the person will receive an Income Related payment, ESA(IR). An Income Related ESA may be payable in any case if they require additional financial support for specific reasons.
- 1.3 Incapacity claims made from 6 April 2001 or those linking back to before that date take pension income into account when determining benefit entitlement. In these cases any occupational pension of more than £85 a week results in the incapacity benefit being reduced by half of the amount over this limit. This pension income rule also applies to contributory ESA payments. “
- 1.4 At present entitlement to incapacity benefit (a contributory benefit i.e. where the individual has paid sufficient National Insurance contributions) is taken into account when assessing entitlement to an Injury Pension under Part 1, paragraph 3 of the



Firefighters' Compensation Scheme. This will continue where entitlement to incapacity benefit exists.

- 1.5 In relation to what deductions should be made from an injury award it is only the ESA(C) that should be considered. This mirrors the current treatment of incapacity benefit.
- 1.6 When someone becomes entitled to contributory ESA, they will enter an initial 13-week assessment phase. During this period they will:
- receive a basic rate payment of £60.50 a week for a single person aged 25 or over, £47.95 a week for a single person aged under 25.
  - undertake a Work Capability Assessment (WCA) to decide what, if any, ESA they are entitled to from week 14.
- 1.7 If the WCA is satisfied one of two components will be paid:
- **Work-related activity component** of £24.00 becomes payable. This is paid in addition to basic allowance payable during assessment phase, bringing the total amount payable to £84.50 which is equivalent to the long-term rate of Incapacity Benefit.
  - **Support Component** More severely disabled customers are not required to comply with the work-related activity regime and are entitled to the support component of £29.00 a week in addition to basic allowance of £60.50 making a total of £89.50 a week.
- 1.8 For more information on ESA visit [www.dwp.gov.uk/esa](http://www.dwp.gov.uk/esa)

## 2.0 Action in assessing injury awards.

- 2.1 (i) Confirm if the member has entitlement to either incapacity benefit or **contributory** ESA
- (ii) Having established entitlement treat the reference to additional benefits in Schedule 1, Part 1, paragraph 3(2) of the FCS as applying to **contributory** ESA and make the necessary deduction
- (iii) Having established title to **contributory** ESA, authorities should determine if the amount in payment is the basic rate payable for the first 13 weeks. If so they will need to confirm with the recipient if the contributory ESA has ceased or been increased from week 14 and re-assess the injury benefit accordingly

- 2.2 ESA will be adjusted annually according to the Rossi Index, defined as the all items Retail Prices Index excluding rent, mortgage interest payments, council tax and depreciation costs. DWP have indicated that they are considering whether in future other benefits, including Incapacity Benefit, should be updated using the Rossi Index rather than the all items Retail Prices Index as is currently the case. Both indices are compiled by the Office for National Statistics (<http://www.statistics.gov.uk/STATBASE/tsdataset.asp?vlnk=229&More=N&All=Y>). In the meantime, authorities are advised to contact their local DWP office to confirm the rate applicable to benefit calculations.
- 2.3 DWP have advised that the initial award notifications will provide an explanation of the award and that it should be clear to their customers whether they are receiving ESA (C) or ESA (IR). The normal Disability Benefit payments that firefighters receive will not affect ESA (C) but, where less common benefits do overlap, this should be clearly shown on the notification. There should, therefore, be no reason for those who have been medically retired to withhold information from the authority. Where authorities experience difficulty in obtaining information, or consent to contact the DWP, from retired firefighters then consideration should be given to withholding or suspending payment of the pension until the relevant information is provided.
- 2.4 A change to the wording of the Firefighters' Compensation Scheme (Scotland) Order 2007 to update references and recognise the introduction of ESA is being considered and, if necessary, will be backdated to the ESA implementation date.

Yours sincerely

Dorothy Hamilton

Policy Officer

