



SCOTTISH PUBLIC PENSIONS AGENCY

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Dear Sir or Madam

POLICE PENSIONS CIRCULAR No 2004/1

- 1. BRITISH TRANSPORT POLICE PENSION TRANSFERS**
- 2. POLICE CADETS PENSION POSITION**
- 3. MISCELLANEOUS**

This circular should be brought to the attention of pension and personnel managers and staff who are responsible for the administration of the Police Pensions Scheme (PPS).

1. Transfers between the British Transport Police (BTP) and Police Forces

On 30 April 1998 a PNB agreement provided for the mutual recognition of rank and service for pay purposes in order to facilitate interchange between BTP and Police Forces. It was recognised at the time that another way to facilitate interchange would be to introduce improved arrangements for dealing with pension transfer values. However, the process of implementing the required pension changes to give full effect to the PNB agreement has taken longer than originally expected to finalise.

The Home Office propose to conclude a bilateral agreement between BTP and Police Forces which will enable transfer values from the British Transport Police Force Superannuation Fund (the BTP Scheme) to be treated as though BTP were a member of the Public Sector Transfer Club. The agreement will extend to England and Wales only therefore SPPA are in the process of arranging a similar agreement for forces in Scotland. Once an agreement has been finalised the changes to the PPS will be drafted and circulated for consultation before coming into force later in the year. It is envisaged that it will have effect from 1 February 2001. This is the date on which the Strategic Rail Authority (SRA) was set up.

Full details of the arrangements will be issued by SPPA nearer the time, however the proposals for backdating are summarised in the following paragraphs to allow preparatory work to be put in hand.

Backdating to 1 February 2001 applies to two sets of people:

- *serving and retired officers who last transferred to a police force on or after 30 April 1998 and with a transfer value from the BTP Scheme between 1 February 2001 and the date of the new regulations coming into force.* These officers, without any application required, will have their service credit recalculated and backdated on the basis of the more favourable transfer rate (although their CETV payment will not change); and
- *serving officers who last transferred into a police force on or after 1 February 2001 but without a transfer value from the BTP Scheme.* These officers will have a year from the date the new regulations come into force to make such a transfer-in under the bilateral arrangement – in the same way as Club transfers.

In addition to backdating the agreement to 1 February 2001 it is proposed to provide police authorities with the discretion to grant either of the following applications provided the applicant last transferred from BTP to a police force on or after 30 April 1998 and the application is made **within three months from the date the amendments come into force:**

- *from serving and retired officers who transferred in service from the BTP Scheme on or after 30 April 1998 but before 1 February 2001.* They can have their service credit recalculated and backdated on the basis of the more favourable transfer rate (although their CETV payment will not change); and
- *from serving officers.* If no such transfer value has yet been received, they can request that a transfer value from the BTP Scheme be accepted on bilateral agreement terms - in the same way as Club transfers. (We propose that the application need be no more than a request to set the arrangements in hand, subject to the normal proviso that the officer would be able to accept or reject the eventual offer of service credit.)

This advance notice is given so that work can be put in hand now to identify those who would be covered by these provisions for backdating.

2. POLICE CADETS PENSION POSITION

A number of forces both in Scotland and England and Wales have reintroduced cadet forces. Previous discussions concluded that the Local Government Pension Scheme (LGPS) would be the most appropriate pension scheme for cadets as they are not entitled to join the PPS.

However, a query was raised last year about the right of a cadet to be a member of the LGPS and the Home Office sought appropriate advice. The Police Cadets (Pensions) (Scotland) Regulations provide that if a cadet receives a qualifying injury he or his dependants may be paid a gratuity, injury pension, an ill-health pension and certain widows', dependant relatives or children awards. It is the availability of these benefits that puts the entitlement of a cadet to join the LGPS in doubt.

The Local Government Pension Scheme (Scotland) Regulations 1998 excludes membership to someone who belongs to another statutory pension scheme (Regulation 5(1)). The regulations also define a statutory pension scheme as an occupational scheme provided by or under enactment (regulation 5 (2)). In the interpretation section, occupational pension is defined as an occupational scheme within the meaning of section 1 of the Pensions Schemes Act 1993. There are exclusions to this definition but the injury benefits scheme available to a cadet is not covered by them.

This means that if the benefits available to cadets come under the definition of an occupational scheme provided by section 1 of the Pensions Schemes Act 1993 then cadets have to be excluded from the LGPS scheme. Section 1 defines an occupational pension scheme as: “any scheme or arrangement which is comprised in one or more instruments or agreements and which has, or is capable of having, effect in relation to one or more descriptions or categories of employments so as to provide benefits, in the form of pensions or otherwise, payable on termination of service, or on death or retirement, to or in respect of earners with qualifying service in an employment of any description or category;” This definition would seem to cover the benefits available to a cadet.

In addition to the exclusion rules of the LGPS, regulation 4 (3) of the Police Cadets (Pensions) (Scotland) Regulations 1973 provides that “where these regulations have effect in relation to a police cadet they shall have effect to the exclusion of any provision for pension, allowance or gratuity in respect of his service as such contained in or in force under any enactment;...”

The Home Office therefore, based on the equivalent English legislation, have now concluded that that cadets should be excluded from the LGPS. SPPA concur with the Home Office opinion and would ask that those forces who have introduced cadet forces should consider the position of any individuals who have been allowed to join the LGPS.

3. MISCELLANEOUS

Further clarity on when the FMA can act as SMP

SPPA circular 2003/6 issued on 5 December 2003 confirmed that the FMA could undertake cases where the question of permanent disablement had already been addressed. [The issue of permanent disablement is not restricted to cases of possible ill-health retirement under regulation A20].

The FMA cannot act as SMP in the following cases where permanent disablement is being considered:

- A claim for early payment of deferred pension under regulation B1(5);
- A claim for early payment of a deferred pension under regulation B5(4)
- A claim for an injury award made by a former officer under regulation B4 who has not already been assessed as permanently disabled- where the issue of permanent disablement must be decided first before the issue of injury can be addressed.

The cases where the FMA may still act as SMP are therefore as follows:

- A claim for an injury on duty where permanent disablement has already been determined;
- Review of an ill-health pension under regulation K1
- Re-assessment of an injury pension under K2
- Reduction of pension in case of default under K3
- A claim for an injury gratuity under the Police (Injury Benefit) Regulations.
- Where the FMA can act as SMP in cases of urgency or total incapacity (paragraph 30 of the guidance in SPPA circular 2003/3 refers).

Guidance to Appeal Board Members

The SPPA's Guidance to Appeal Board Members has been prepared and issued to BUPA Wellness in preparation for appeals, made from 1 October, that will be decided by the board rather than an individual medical referee.

A copy of the guidance is attached as it will be of interest to FMAs as well as Board Members. I would be grateful if it could be distributed to the FMAs and any other person(s) where appropriate. The guidance will be updated periodically and it is intended to create a Police webpage on the SPPA website later in the year where the guidance, circulars and other items of interest will be located.

Yours faithfully



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