

*ATAL AMDDIFFYN YMATEB
PREVENTING PROTECTING RESPONDING*



Gwasanaeth Tân ac Achub
Fire and Rescue Service

Pensionable Pay

FPS 1992 Day Crewed Duty System (DCDS) – Retaining Fees

FPS 1992/2007/2015 Training Instructors – Training Allowance
(Substantive Posts)

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• **Background**

There have been a number of key legal challenges and determinations on the matter of pensionable pay which highlighted the need for the Fire and Rescue Authority (FRA) to review the treatment of both retaining fees under the 1992 pension scheme and training allowances (all firefighter pension schemes) which to date were treated as non pensionable.

Case history:

- Kent & Medway Towns Fire Authority v Pensions Ombudsman and anor, [2001] OPLR 357
- Norman v Cheshire Fire & Rescue Service, [2011] EWHC 3305 (QB)
- Mr Michael Smith v South Wales Fire & Rescue Service, PO-3511 (2014)
- Mr N v West Yorkshire Fire & Rescue Authority, PO-11867 (2017)
- Mr A v Warwickshire Fire & Rescue Authority, PO-15584 (2018)
- Booth v Mid and West Wales Fire Rescue Authority; Mid and West Wales Fire Rescue Authority v Bradshaw, [2019] EWHC 790

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Following legal determinations, the FRA in conjunction with legal advisers and FBU representative bodies considered whether retaining fees and training allowances paid to members of FPS 1992, FPS 2007 and FPS2015 met the criteria of pensionable pay. In particular, they considered if the payments are:

- In relation to work done under the contract of employment in relation to the duties of the role
- Attached to a permanent role and paid regularly, in which case it should be made pensionable if not already treated as such.

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- **Outcome for North Wales Fire and Rescue Authority and Scheme Members**

The FRA has determined that retaining fees and training allowances, should be treated as pensionable pay, either as an additional pension benefit or where applicable within a final salary link.

This decision means that additional pension contributions must be recovered from employees who fall under the determination.

Rather than recovering contributions back to inception of the allowances, the FRA has decided to apply the Limitations Act 1980. The Service will retrospectively recover pension contributions going back six years from the date of the FRA decision 31 March 2020.

- **Bottom Line:**
 - Pension contributions have been underpaid.....but
 - Potentially larger pension based on those extra earnings
 - For a disproportionately small extra cost



The Final Detail

- Recover employee contributions for any periods of DCDS/Training Instructor from 31 March 2013 onwards
- Either by equal instalments from pay, paid monthly over 6 years (minimum of £50 applied) or immediate payment in full
- Charged at rate that existed at that time
- Monthly instalments via payroll to receive tax relief (£100 = £80); Inland Revenue self assessment tax refund requirement for any payments made in full
- If employment ends earlier, need to pay remainder from final salary or if retiring, from lump sum

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• How Do I Benefit?

Potentially higher pensionable earnings = higher pension

FPS 92 & 07 are both final salary schemes

“Split Pension” facility allows you to split your pension pot if your earnings drop so that for X years the higher earnings are the “final salary” for that part of your pot



• Scenario 1

1992 Protected Scheme Member

Start Date 01/07/1990 (Age 25) - Retirement Date 01/07/20

Roles During Period of employment:

- Firefighter 15 years, Day Crewed Duty System - Crew Manager 15 years

	Final Pensionable Pay (Estimated Figures)	Annual Pension (Estimated Figures)	Tax Free Lump Sum (Estimated Figures)
Previous Interpretation of Pensionable Pay	£34,528	£17,436	£116,210
Reviewed Interpretation of Pensionable Pay	£36,254	£18,310	£121,900

Gross contribution recovery for six years approximately £1,500; offset by reduced tax, estimated net recovery of £1,200



• Scenario 2

1992 Protected Scheme Member

Start Date 01/07/1990 (Age 25) - Retirement Date 01/07/20

Roles During Period of employment:

- Firefighter 15 years, Crew manager 5 years, WMA training instructor 10 years

	Final Pensionable Pay (Estimated Figures)	Annual Pension (Estimated Figures)	Tax Free Lump Sum (Estimated Figures)
Previous Interpretation of Pensionable Pay	£36,255	£18,310	£121,900
Reviewed Interpretation of Pensionable Pay	£43,506	£21,970	£146,300

Gross contribution recovery for six years approximately £6,400; offset by reduced tax, estimated net recovery of £5,120



• Scenario 3

2007 Protected Scheme Member

Start Date 01/07/1980 (Age 25) - Retirement Date 01/07/2020

Roles During Period of employment:

- Firefighter 25 years, Crew manager 5 years, WMA training instructor 10 years

	Final Pensionable Pay (Estimated Figures)	Annual Pension (Estimated Figures)	Tax Free Lump Sum (Estimated Figures)
Previous Interpretation of Pensionable Pay	£36,255	£18,130	£72,500
Reviewed Interpretation of Pensionable Pay	£43,506	£21,750	£87,000

Gross contribution recovery for six years approximately £6,400 offset by reduced tax, estimated net recovery of £5,120

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- 2015 CARE Scheme Member

	Pensionable Pay (Estimated Figures) WM(Training Instructor Substantive Role)	Annual Pension into Pension Pot (Estimated Figures without annual inflation increase) WM(Training Instructor)
Previous Interpretation of Pensionable Pay	£36,255	£590
Reviewed Interpretation of Pensionable Pay	£43,506	£708

Additional pension contributions per annum £935 less tax reduction £185 = £750

(Note - commutation into lump sum reduces buyback period for additional contributions to approximately 4 to 5 years).

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Any Questions?

