



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

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## POA Circular 110/2019

Action	Information
England/Wales	England/Wales <input checked="" type="checkbox"/>
Scotland	Scotland <input checked="" type="checkbox"/>
Northern Ireland	Northern Ireland <input checked="" type="checkbox"/>
Special Hospitals	Special Hospitals <input checked="" type="checkbox"/>
Private Sector	Private Sector <input checked="" type="checkbox"/>
IRC	IRC <input checked="" type="checkbox"/>

29th October 2019

Dear Colleagues

### PENSION AGE DISCRIMINATION CLAIMS

Further to POA Circulars 97/2019 and 69/2019, I am now in a position to further update you in relation to our Pension Challenge.

As you know the Judges' cases were listed first for a preliminary hearing. The hearing was conducted in private earlier in October 2019, as is usual for a case management hearing.

Although lawyers had briefed the Deputy General Secretary Joe Simpson and myself on discussions with Government Legal Department (GLD) it was decided as per POA Circular 97/2019 not to comment further.

The Defence Police Federation who our lawyer also acts for are part of the Civil Service Pension Scheme and today there has been positive news on that Case Management Order which were made in their case earlier today by consent.

Because it was by consent, we know what the GLD will agree in our cases, and GLD and our legal team have tentatively agreed to ask the Tribunal to make the similar or the same orders without any need for a hearing.

### Issues Raised

- (i) Immediate Cases;

The Tribunal made a formal binding declaration that;

The Claimants are entitled pursuant to section 61 of the Employment Act 2019, to be treated as satisfying paragraph 12 (2) (B) (read with paragraph 9 (1) of schedule 2 to the Public Service (Civil Servants and Others) Pension Regulations 2014 from 1<sup>st</sup> April 2015.

What this means is that anyone approaching retirement now (on the grounds of ill health or otherwise) can insist on having their case dealt with under the rules of the PCSPS not Alpha. They do not have to wait for the new regulations to be made.

Note that the wording is "entitled to be treated". That does not mean they are required to be treated as members of the PCSPS. If the result would be better for them, they can insist on being treated as a member of Alpha. That is important because in some cases, the upper tier ill health top up pension is more generous in Alpha (mainly because it is based on prospective service to state pension age, not age 60 or 65).

The Deputy General Secretary and myself are already discussing with our lawyers how the process will work with HMPPS and how the relevant forms need to be redesigned. Members who are about to retire on ill health need to know which of the schemes will produce a better result.

For anyone who has already retired on ill health grounds, the Government has also committed to paying arrears if the pension being paid is too low. Government have asked for our assistance with identifying ill health cases. We have instructed our legal department at Cronin House to send through all cases to our lawyers.

(ii) NHS Claims

The Tribunal was very slow in serving the claims on the Health Authorities and Government. Their responses were therefore only filed last week. The GLD and our lawyers agreed that, in principle, the same type of Declaration should be made on the NHS cases. The consequences would be the same.

(iii) Non – Urgent Cases

For other cases, the outcome will be a solution by way of laying new regulations rather than the payment of a lump sum of compensation. It may be that the 2015 Scheme is substantially re-written, it may be that a brand new scheme is created. Either way it will affect benefits accruing after the new legislation comes into force and will not have retrospective effect. GLD thinks it will take two years to get it up and running.

The POA through the Deputy General Secretary, National Chair and myself will continue to seek urgent discussions with the Secretary of State Mr Buckland QC, MP in order to discuss Pension Age. Our briefings to Politicians in assisting through the Early Day Motion and indeed the laying of Parliamentary questions when Mary Glendon MP raised a question on Pension Age on our behalf has kept the pressure on Government. The Minister stated that he would be content to meet with the POA on Pension issues. I will now be writing to the Secretary of State to secure these meetings.

In the coming days further information will be circulated to the membership. This is positive news and a step closer to achieving Conference Policy. Along with the Deputy General Secretary Joe Simpson, I will continue to brief our legal team and keep you updated as and when news becomes available.

Yours sincerely



STEVE GILLAN  
General Secretary