



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

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POA Circular 137/2018

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

24th December 2018

Dear Colleagues

RECENT COURT OF APPEAL JUDGEMENT TO PENSION CHANGES MADE IN APRIL 2015

As members are aware, the pension arrangements for Prison Officers, Correctional Officers and Secure Psychiatric Workers were fundamentally changed in April 2015 by Government despite opposition from the POA and other unions.

In broad terms, the normal pension age went up, the scheme changed from a final salary scheme to a career average scheme. The conditions applicable if a member wished to retire on ill-health grounds were also tightened.

These changes were brought about by closing existing schemes and transferring members to the Alpha Scheme in the case of Prison and Correctional Officers and the NHS Pension Scheme 2015 in the case of Secure Psychiatric Workers.

An exception was made for older members, who were permitted to remain in their old scheme.

The Court of Appeal has now ruled that these changes were unlawful. The Court of Appeal's Judgment concerns similar changes made in April 2015 to the Pension Schemes for Judges and Firefighters. The illegality concerns the transitional arrangements which allowed older members to remain in their old schemes.

The Court said that they unlawfully discriminated against younger workers on the grounds of age.

There is a direct read-across to the Civil Service and NHS pension schemes.

The POA started similar claims to those made by the FBU and Judges for our members which have been put on hold by the Employment Tribunals.

The result of this ruling unless the Government is given leave to appeal to the Supreme Court is that:

- Members who transferred to the Alpha Scheme or the 2015 NHS scheme will now have to be provided with the pension benefits that they were entitled to before the changes were made.

- This requirement is retrospective. In effect, this means that the better scale of benefits must be applied to everyone, with effect from 1st April 2015.
- The Government is certain to make another attempt to reform the pension schemes. That will take time and will require legislation. When the changes are made, they will apply only to the pensions that members earn from the date when the new changes come into effect. They cannot be applied retrospectively.
- The Ruling will still not affect members who could remain in their existing schemes. They will continue to be members of the old schemes unless and until new changes are made.
- If the Government bring about another pension reform this will affect all members equally irrespective of age and any such changes will apply only to future service.

What will NOT change:

- Members who joined the Service on or after 1st April 2015 were never in the old, better schemes. This case gives us no basis for arguing that they have been unlawfully discriminated against.
- The contribution increases that have been required since 2010 will not change. They are the same for the pre- and post-2015 schemes and there is no basis for saying they are unlawful.

What happens next?

The Government has made an application to appeal to the Supreme Court. They need permission from the Court of Appeal or from the Supreme Court itself to proceed with an appeal, and at the time of writing we do not know if permission will be granted.

Subject to that decision and outcome, the Employment Tribunal claims we have filed will proceed however, it is likely they will all be settled. We will enter into discussions with the Government and relevant personnel to ensure the transitional arrangements to return members to their previous pension schemes takes place as quickly as possible without detriment.

The POA will if required enter negotiations regarding any future changes that the Government will no doubt want to introduce as stated, that will take time and will require further legislation.

Please draw the contents of this circular to all your members.

Thanking you in anticipation of your support and co-operation, I will keep you updated as matters progress.

Yours sincerely



STEVE GILLAN
General Secretary