

From: [REDACTED]
To: [paul.burns](#)
Subject: injury pension overpayment
Date: 25 February 2008 10:41:44

Dear Paul

According to the latest RMA newsletter you have done much research on the latest information regarding the injury pension and overpayments.

I have today recieved a letter from LCC telling me they have overpayed me by £3088.13.

I presume this is because they have failed to take in to account cost of living rises in the incapacity benefit.

I informed them of my first rise in benefit in 2001 and received a letter from them telling me, "this increase is a cost of living increase and therefore does not need to be taken in to account in the calculation of the injury portion of the your fire service pension" (I have a copy of the letter)

In view of that I did not need to inform them unless any change to the type of benefit occurred.

Before I write to contest this overpayment I would appreciate your comment and any help you can provide based on your extensive research.

As an out of trade member of the FBU, is it worth getting them involved?

Best Regards

[REDACTED] (ex DO. A div)

From: [REDACTED]
To: [paul.burns](#)
Cc: [steveharmanfbu](#)
Subject: pension overpayment saga
Date: 29 February 2008 11:19:49

Paul,

Many thanks for keeping me up-to-date with developments from your end.

Just to let you know that as an out of trade member I have contacted Steve Harman and requested legal assistance with this from the FBU, I am assured that they will be taking this matter up.

I have just received my march pension and find that it has been reduced by £38.04 per month, a bit rich considering everything is still being disputed and no evidence has yet been produced to warrant this.

it seems that LCC Pensions can just act as they want without recourse.

Please continue to keep me in the loop, I hope to see you at the RMA agm.

Best wishes and keep up the good fight as only you can

[REDACTED]

From: [REDACTED]
To: [steveharmanfbu](#)
Cc: [paul burns](#)
Subject: injury pension saga
Date: 10 March 2008 18:14:39

Steve,

On the above subject, I am still awaiting a response to my letters of 26th and 29th feb, in fact apart from an acknowledgement of my e-mail copy of the letters (which I requested) I have had no communication apart from "I acknowledge receipt of your e-mail and advise that your case is currently being reviewed. A full response will be sent in due course"

In each of those letters I asked that the threat to suspend my pension be lifted and the status quo be put in place until sorted.

(quote from original letter)

"if this form is not returned by 18th March we will use the suspend option as the default and suspend your injury pension accordingly"

Following the reduction, without any evidence of overpayment, of £38.04 in this pension in march I am increasingly concerned that this suspension option will be adopted. I obviously have no intention of signing the form without clear evidence as to overpayment.

I am aware of your ongoing work on this subject as well as the excellent work done by Paul Burns and wonder where the FBU Legal department are up to.

One suggestion I have is that a High Court injunction is taken out to by the FBU to prevent LCC suspending any injury pension until this whole mess is sorted.

I know I am not the only person in this boat so I am sure others would benefit.

I am on holiday next week so will be away on the deadline day and would appreciate some feedback before this friday.

Regards and keep up the good work

[REDACTED]

tel (01772) 532091
fax (01772) 532600
e-mail julie.wisdom@pens.lancscc.gov.uk

Mr B 


Your ref
Our ref IS/PEN/JW
Date: 3 April 2008

Dear Mr B 

FIREFIGHTER'S PENSION SCHEME INJURY PENSION REVIEW

I refer to your recent letter regarding the overpayment of your injury pension. The Pensions Services Manager has asked me to respond to you.

When your initial letter was received it was referred to Lancashire Fire & Rescue Service (LFRS) for consideration. LFRS advised me they would be responding to your letter directly and you should have been informed of this when your letter was acknowledged.

Since your initial letter was received, LFRS have indicated that their response would be issued shortly. I have confirmed with LFRS that further consideration of your case has resulted in a delay in responding to you. I apologise for not keeping you informed of the position. LFRS have today informed me that a written response will be made to you as soon as possible, which I expect to be next week.

Having completed a review of your injury pension I am required to ensure that the correct level of injury pension is in payment. Accordingly, your injury pension has been reduced as a result of the increase in Incapacity Benefit from September 2000. I can confirm that your injury pension will continue in payment until I have received further instructions from LFRS regarding the overpayment of injury pension.

Julie Wisdom
Casework Supervisor
Lancashire Pensions Services
County Hall Preston Lancashire
PR1 0LD





Mr [REDACTED]

Please ask for: Brendan Hamilton
Telephone: 01772 866856
Fax: 01772 866847
Email: BrendanHamilton@lancsfireandrescue.org.uk
Your Ref:
Our Ref: BH/LC
Date: 08 April 2008

Dear Mr B [REDACTED]

RE: YOUR LETTER DATED 26TH FEBRUARY 2008 TO LCC PENSIONS

May I first of all, apologise for the length of time to respond to your letter.

Your letter was passed to me to instigate an investigation of your file which had been archived and unfortunately I was absent for several weeks leave which further elongated the process.

On review of the history of the communications between you and Lancashire Fire and Rescue Service regarding your injury pension it has been established that:

- You retired on 14 April 2000 and informed the Service in writing that you were in receipt of £60.52 per week with effect 14 April 2000.
- From our audit of Department of Work and Pensions records, we are advised that on 29 September 2000 your incapacity benefit was increased from upper to lower tier but we have no record of you informing the Service of this. The overpayment of benefit primarily started at this juncture.
- On 16 March 2001 you forwarded a letter to Miss Drinkall advising that your benefits were to be increased by the cost of living from 12 April 2001. As Miss Drinkall, explained in her response of 23 March 2001, because the cost of living increases in pension are not part of the recalculation, there was no reason to notify us in such circumstances. The earlier failure of notification in regards to your Incapacity Benefit was not spotted at this time.
- As our audit indicated, your benefit continued to be paid with only the cost of living increase, and, as you were not required to, you did not notify us of any further change.

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Preston
PR2 3LH



In summary the overpayment has accumulated from 29 September 2000 when we were not in receipt of a notification of change in your Incapacity Benefit. This annual overpayment has therefore accumulated in the way indicated by Ms. Julie Wisdom in her earlier correspondence.

Please let me know if you require further clarification of the events I have outlined

Yours sincerely

A handwritten signature in black ink, appearing to read 'B Hamilton', with a stylized flourish at the end.

Brendan Hamilton
Head of Human Resources

[Redacted]
[Redacted]
[Redacted]
Tel [Redacted]
e-mail [Redacted]

15th April 2008

Mr. B. Hamilton
Head of Human Resources
LFRS

ALLEGED PENSION “OVERPAYMENT”

Dear Mr. Hamilton,

Thank you for your very belated reply to my letter of 26th Feb, which was dated 8 April, postmarked 10 April and received 14 April.

My I say at the outset that I consider this response time and your excuse to be discourteous, disrespectful and most unprofessional, in keeping with the way in which this whole matter has been dealt with. This makes the initial letter “demanding money with menaces”, giving me a short time to pay up or have my pension stopped all the more sinister. I dealt with and replied to that the same day and was not even given the courtesy of a reply until some weeks after a further letter and a formal complaint was sent, incidentally and not surprisingly I have not had a reply to either of those!! I too am about to go on holiday but have done you the courtesy of a reply on the day I am due to fly!

Let me deal with the content of your reply,

When I was retired from the Service my wife and I were visited at home by Miss Drinkall and I think Miss Southworth, prior to my retirement date to give me information and advice on the pension process. I was given a print out of my entitlement and shown on that is the amount of Incapacity Benefit I was receiving. It was known that I would shortly move on to the long term incapacity and this was discussed. I was told that this is an automatic increase after a certain period and would be calculated in automatically, all I had to do was give them a quick ring when this was notified to just make sure it was done. The Human Resource Dept were always aware of the amount and type of benefits one was entitled to.

When I received this notification I rang and spoke to Miss Drinkall and she thanked me for reminding them and said it would be dealt with. No further action on my part was required!!

When I was next informed of a rise in benefits I wrote in to inform the Authority. The reason for informing the Authority was explained in the letter in that I was fulfilling my obligation to inform you of any change in the benefit. The term “cost of living increase” was not used by me, my only purpose was to inform you of the new amount. The reply from Miss Drinkall contained the phrase “cost of living increase” and a subsequent telephone conversation led me to believe that I had carried out my obligation but was not required to do so any more unless the type of benefit I received changed!! This has remained the position, which you recognise.

You indicate in your letter that you have no (sic) record of my informing you, that fault lies within your Department.

The fact that I was fully aware of my obligations and **carried them out** is borne out by the tone and content of my letter of March 2001. Notwithstanding this the information passed to you in that letter showed the total amount I was receiving and to use your phrase “the earlier failure of notification in regards to your Incapacity Benefit was not spotted at this time” means you had another chance to correct what you deem to be a wrong and failed to do so, that error as you readily admit in your letter lies within your Department.

The calculation of the injury element of pension is a wonder to behold for pensioners especially when this is reduced by Benefits and we rely on those who are supposed to know to calculate our pensions correctly.

Throughout my retirement I have demonstrated that I fulfilled my obligations and therefore cannot see the reasoning behind your demands and invidious threats. The fact is that I am not under any legal obligation to claim Incapacity Benefit and if I had not chosen to do so you would have to pay me the full amount of my award, an action that appears worthy of serious consideration and would rid me of this problem!!

I look forward to your reply and the removal of these threats

B [REDACTED] B [REDACTED]

The wording of the FPS Rule B4 is very clear in that it accepts that the scale of benefits will change but has no effect on the amount deducted.

When I was medically retired it was a declared fact that I was receiving Incapacity Benefit and this was taken in to account in the calculation of the Injury Element. I have not moved from that position and have only ever claimed the one benefit (IB)

In all your calculations and assessments you have used a change in the rate/scale of benefit from 29 Sept 2000 as the basis for your allegation. **This is fundamentally wrong as Rule B4 states.**

I have always been on Incapacity Benefit and that has not changed, what has changed is the scale at which it is paid, a position you readily accept as evidenced by copies of LCC pension assessments, and copies of the DWP documentation. The very first official notification (19/6/2000) I sent to LFRS outlining the decision to pay me the benefit states,

“Your Incapacity Benefit will be increased after you have been incapable of work for more than 52 weeks”

On the “Details of Overpayment” schedule used in this process it states

“Details of overpayment

We were informed of that incapacity benefit was in payment from 14 April 2000 but not that the rate increased from 29 September 2000”

If you check information from DWP and in fact LCC on Incapacity rates it shows there is only incapacity benefit but that it may be paid at different rates at NO stage or in any literature does it say that the different rates constitute a different benefit, a position you seem to have arbitrarily taken. If you were to follow your line it would mean that every time the benefit is increased a deduction should be made to the injury pension!!

It would appear to me that although I informed LFRS of changes to the **rate** of benefit, I had no need to and in fact the people responsible for pensions at that time took the correct course of action and discounted this rise in the scale of payment as it did not alter the amount of entitlement.

I can only conclude that a mistake has been made through a lack of understanding of the rules by the present staff involved.

In view of the above I now seek early withdrawal of these allegations and **repayment of the £38.04 per month you have been unlawfully deducting from my injury pension since Feb 2008.**

I look forward to your actions and ask that this be corrected as a matter of urgency!!!

Yours Sincerely

B ■ B ■

receipt of injury pensions. Minutes of various meeting, especially Resources Committee meetings put you at the heart of this matter. Not once has any caring attitude been displayed or any explanation of one's rights. I have had to badger you to get information and it appears to me that you have taken the view, **we say it, so it must be!!!** The minutes of the last LFRS Resource Committee committee show that the "CFO confirmed that LFRS had acted entirely appropriately in this matter", I beg to differ.

I would now like a speedy resolution and withdrawal of these accusations and reinstatement of my pension and ask you take the appropriate steps to ensure this is done as it appears that recourse to the legal profession will now be the only option left.

Yours Sincerely

B ■■■ B ■■■



Please ask for: Bob Warren
 Telephone: 01772 866805
 Email: bobwarren@lancsfireandrescue.org.uk
 Your Ref:
 Our Ref: BW/JLW
 Date: 18 May 2009

Dear Mr B [REDACTED]

FIREFIGHTERS PENSION SCHEME INJURY PENSION REVIEW

I write to you as the lead officer in the above mentioned review and further to previous correspondence in respect of your alleged overpayment in respect of your pension injury award.

Firstly I would like to apologise for the length of time that the review of your case has taken. I have now had the opportunity to review all the documentation and the history of your injury award payments.

In summary I have concluded that you have been overpaid during the period from 29 September 2000 to 29 February 2008 and this amounts to £3,088.13. This has arisen because the level of benefits deducted from your injury award payments in respect of incapacity benefit was incorrect and not at the appropriate level.

However, from perusal of the documentation, it is equally clear that you did notify the Service you were in receipt of incapacity benefit from April 2000 and, whilst no record of notification from the lower to higher rate in September 2000 can be traced, it is equally acknowledged that you did notify the service of the payments you were receiving in March 2001 following an inflation increase.

It would appear that the Service did not then make the appropriate deduction from you injury award. Indeed the Service went further and advised you that you did not need to notify us of future inflation increases.

Headquarters

Lancashire Fire & Rescue Service
 Garstang Road, Fulwood
 Preston
 PR2 3LH

G:\Bob Warren\Letters [REDACTED]



I consider this to be poor administration and feel it is inappropriate to ask you to reimburse the Service this overpayment that resulted. I therefore intend finalising this matter by writing off the overpayment.

Yours sincerely



A handwritten signature in black ink, appearing to read 'R J Warren', written in a cursive style.

R J Warren
Director of People and Development



Please ask
for:
Direct Line:
Email:
Your Ref:
Our Ref:
Date:

Heather Hickson
01772 866903
heatherhickson@lancsfireandrescue.org.uk
FOI0067_09
12th June 2009

Dear Mr B [redacted]

RE: Your request for information

I have made enquiries within the service to enable me to provide a response to your original Freedom of Information request which you made on the 2nd of May 2009.

With regard to your subsequent request for information dated 10th June relating to your complaints and how these have been dealt with, I wish to advise you that these have been brought to the attention of Mr Warren and assure you that these will be dealt with as a matter of importance and Mr Warren will be in touch in due course.

I must advise you that some of the information you request is being withheld under the Freedom of Information Act 2000. The exemptions which apply to this information are Section 40 of the Freedom of Information Act relating to personal data.

You requested information relating to the Combined Fire Authority Resources Special Sub-Committee on Injury Pensions.

- 1.) Why was this Committee set up?
- 2.) When was this Committee set up?
- 3.) Who are the Members of this Committee?
- 4.) What is the remit of this Committee?
- 5.) What representation do any persons who may be the subject of discussions have?
- 6.) How is the business of this Committee reported?
- 7.) What timescales are expected before the need for this Committee is no longer required?

We cannot provide the information requested at Q3 re: Who are the Members of this Special Sub-Committee?

However we do wish to provide you with responses as below;

- 1.) The Sub-Committee was established with delegated powers to act, to consider and determine individual cases of dispute over injury pensions.
- 2.) It was established at Resources Committee held on 1st April 2008.
- 3.) The Sub-Committee was established with two Labour, one Conservative and one Liberal Democratic members.
- 4.) As per Q1. The Special Sub-Committee also oversees the progress of the review.

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- 5.) It is an authority meeting under part II procedures which excludes the press and members of the public and as such no right of audience exists. However, in considering issues in dispute the Sub-Committee are advised of the full facts including any representations from individuals. The Sub-Committee at their discretion may allow personal representation.
- 6.) The sub committee reports to the Resources Committee and the Resources Committee deliberations are in turn reported to the Combined Fire Authority.
- 7.) No timescales have been set.

Please find enclosed a copy of an extract from the Minutes of the Resources Committee meeting held on the 1st April 2008 which Mr Warren felt you may find helpful in support of this response.

If you wish to appeal against this decision, please do so in writing to Mr M Winterbottom, Clerk to the Combined Fire Authority and if you are dissatisfied with the outcome of this you should appeal to:-

The Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Yours sincerely,



Heather Hickson
Information Manager

Enc

Headquarters

Lancashire Fire & Rescue Service
Garstang Road, Fulwood
Preston
PR2 3LH



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URGENT BUSINESS – INJURY PENSIONS REVIEW

The Chairman asked that a Part 2 report on the Injury Pension Review be circulated to the Members of the Committee under Part 1 of the proceedings to aid a discussion on this issue. As the issue was of considerable public interest, it was proposed that an "in principle" discussion on the key issues would take place under Part 1 with further detailed discussions in respect of individual cases taking place under Part 2 of the agenda.

The Chief Fire Officer emphasised that this issue only related to those people who had an on-duty injury pension and confirmed that LFRS had acted entirely appropriately in this matter.

The Director of People and Development was tasked with conducting a review of injury pensions by the Committee in September last year following a report on an individual case. The review completed in October 2007 revealed that this was a wider issue involving substantial amounts of public money.

The background to the issue is that when a firefighter retired with an injury pension, the part of the pension relating to the injury varies depending on the amount of benefits paid by the Department of Work and Pensions (DWP). The onus is on the individual to notify the pension provider of any changes in the level of benefits paid.

In 2007 it became apparent that a significant number of pensioners were not fulfilling this requirement. As a result, LFRS wrote to 167 pensioners in receipt of an injury award seeking permission to contact the DWP to request details of the benefits they were paid. An overwhelming number of pensioners replied positively to this request, with only four refusing to provide the authorisation that LFRS needed to investigate their circumstances.

The benefits information was not contained centrally by DWP but lies within different benefit offices across the county. Each benefit office was asked to report on any benefit the pensioner has received which was related to the pensioners qualifying injury. The benefits offices appeared to have a variety of information in terms of quality and timescale.

This was a national problem and all fire and rescue services would have to address the issue. Furthermore, it affected all organisations awarding injury pensions, in particular Police Authorities.

As a result of the 133 reviews currently completed, it was clear that 8 people had been **underpaid**, 93 people had been paid correctly and 32 had been overpaid. Where underpayments had been identified the sums owing had been paid immediately. Whilst LFRS appreciates that this put those pensioners who had been overpaid in a difficult position, this was tax payer's money. LFRS were making every effort to deal sensitively with those who have been overpaid to reach an equitable outcome.

The scheme was administratively cumbersome and open to abuse and so as a result of the review LFRS has asked the Department for Communities and Local Government to review its construction.

LFRS had also implemented systems as far as reasonably practicable to prevent further problems from arising in the future.

Existing injury awards had been stopped or reduced where the information from DWP had highlighted the injury pension as being paid inappropriately. If the sums were not overly large LFRS advised the pensioner of the detail received from DWP and the calculation of arrears and suggested a repayment plan over a small number of years. If the sums were large LFRS had invited the pensioners to a meeting to discuss the information and subsequently provided them with detail. This had resulted in clarification of the amounts involved. If the pensioner had queried the accuracy of the information, LFRS have gone back to the local benefits office. In a small number of cases, the local benefits office had agreed that it was in error in terms of the benefit not being related to the qualifying injury that triggered the benefit award.

It was proposed that a Special Sub-Committee of four Members of the Resources Committee (two Labour, one Conservative and one Liberal Democratic) be established, with delegated powers to act, to consider and determine individual cases of dispute over injury pensions.

Councillor P Browne asked that it be placed on record that he was against the Special Sub-Committee having delegated powers to determine matters, and that this should be a matter for the Resources Committee.

57/07 RESOLVED:

- a. That the Committee establish a Special Sub-Committee with delegated powers to act, to consider and determine individual cases of dispute over injury pensions.
- b. That the proceedings of the Special Sub-Committee be reported back to the Resources Committee for information in accordance with usual practice.
- c. That the Authority place on record an undertaking that it would only attempt to recover further overpayment monies from the individuals when the Authority was entirely satisfied of the correct and precise amounts involved. In the event of any underpayments the Authority would refund these as quickly as possible.

