

## SHQ - Warren, Bob

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**From:** SHQ - Hamilton, Brendan  
**Sent:** 20 September 2007 11:55  
**To:** SHQ - Hutchinson, Jayne; SHQ - Warren, Bob  
**Subject:** FW: Injury Pensions

**Follow Up Flag:** Follow up  
**Flag Status:** Red

Not much help, out of depth

BH

-----Original Message-----

**From:** Anthony Mooney [mailto:Anthony.Mooney@communities.gsi.gov.uk]  
**Sent:** 20 September 2007 11:24  
**To:** Brendan SHQ - Hamilton  
**Subject:** Re: Injury Pensions

Brendan

Further to your email on 11th September and our subsequent telephone discussions, I understand that you have a FPS pensioner who was medically retired in 1993 and who apparently failed to advise your FRA about the DWP benefits that he was receiving, which should have been deducted from injury pension. You have advised that the overpayment of injury pension equates to \*30,000.

You have also highlighted your concern that the emphasis is on the pensioner to advise the FRA of the DWP benefits that they are receiving and that there is no mechanism by which the FRA can obtain a list of the DWP benefits that any pensioner is receiving without the prior consent of the pensioner, which apparently many seem to refuse to give.

In addition to this you have advised that you have a further 169 cases of medical retirements and have requested guidance on how to audit in regards to DWP benefits.

I have discussed this with my colleagues and suggest the following:

1. With regards to the overpayment of \*30,000 of injury pension, whilst there is nothing in the regulations of the FPS that would provide authority to abate an ill-health pension/injury pension to recoup an overpayment, there is nothing that would prevent this. It is our view that you would need to seek legal advice to see whether there is any wider legislation that would provide you with the appropriate authority.

...{t is possible that your FRA and the pensioner could come to some agreement to pay the outstanding sum, however in the absence of such an agreement the FRA could choose to take out civil proceedings against the pensioner for the unpaid debt. If this is the case a court judgement would decide the way forward. It might be worth pointing out to the pensioner that there will be a cost associated with getting legal representation and potential additional costs if the court awards the Authority's costs.

2. With regards to the audit of the 169 cases of medical retirements, Part 10, Rule 2, paragraph 1 of the Firefighters' Compensation Scheme, previously Rule L3(1) of the Firefighters' Pension Scheme, provides a FRA with the authority to delay the payment of all or part of an injury pension to any extent that they may need in order to determine the amount of the award. It is our view that if a pensioner refuses to provide the FRA with the appropriate consent in order that they can obtain the relevant information regarding the DWP benefits that they are receiving then the FRA would be justified in suspending payment of all or part of their injury pension until the matter of liability was resolved.

Alternatively, if a pensioner who has been medically retired refuses to provide the appropriate consent, it is our view that the FRA would be justified in writing to the individual to advise them that in the absence of any documented evidence the FRA have assumed that they are in receipt of certain DWP benefits and will therefore be deducting them from their injury pension. This could act as a motivation for the pensioner to give their consent for the FRA to access information from DWP in regards

to the benefits that they are receiving.

I hope this clarifies the situation.

Kind Regards

Anthony

>>> "SHQ - Hamilton, Brendan " <BrendanHamilton@lancsfirerescue.org.uk>

»> 09/11/07

2:17 pm >>>

Anthony

The case I outlined is in the attached document. I am seeking clarification as to if we can effect deductions in pension to achieve the repayment without court proceedings if the person s offer of monthly deductions is derisory. My other concern is that there is no incentive for individuals to advise us on changes in state benefits affecting their injury awards We presently have 169 such pensioners and under reasonable diligence we are laking at a robust method of auditing the others but we cannot get the info from DWP at present without their agreement. Can you offer any advice/guidance re scheme regulations or P <<cfa paper re pensions.doc>> ensions Act 2004/95