



## **Surrey Local Firefighters' Pension Board November 2020**

### **Pensionable Pay: Day Related Flexible Hours Allowance and Variable Crewing Hours Allowance. Update Report.**

#### **Introduction:**

1.1 The Board has requested an update on pensionable pay relating to Day Related Flexible Hours Allowance and Variable Crewing Hours Allowance.

#### **2.0 Background**

2.1 In late 2019 Surrey Fire and Rescue Service (SFRS) took legal advice following a High Court Ruling that had implications for pensionable pay. The payments in question were:

- Additional allowance of 10% of basic salary paid for flexibility and additional responsibilities of personnel who undertake a role on the variable crewing hours duty system.
- Additional allowance of 10% of basic salary for flexibility and additional responsibilities of personnel who undertake a role on the day related flexible hours duty system.

2.2 The 10% allowances for variable crewing hours duty system and the day related flexible duty system had been considered in the contract of employment with SFRS as non-pensionable when the payments were introduced. The variable crewing hours allowance was introduced in 2004 and day related flexible hours allowance in 2008. At this time the general view was that additional allowances were not pensionable.

2.3 The legal landscape was changed by the Norman v Cheshire case and was followed in Booth v Mid and West Wales. If the same reasoning is applied to the additional allowances, the legal advice is that both are pensionable.

### **3.0 Communications**

3.1 A letter was sent out on 28 October 2020 to active members currently in receipt of the 10% allowances informing them that pension contributions will commence and be reflected in the November payslip. Supporting FAQs are in place and a dedicated mailbox has been created.

3.2 In addition to the initial letter to active members a holding letter was sent to non-current members on 6 November 2020. This letter highlighted that as these allowances have not been treated as pensionable to date, it is likely that there has been an underpayment in pension contributions, which may have resulted in an overpayment in salary. If there has been an underpayment of pension contributions this now needs to be corrected. The Service will be writing again with further details on how this may affect individual members.

### **4.0 Next Steps**

4.1 Through the Pensions Project Board the Service is working with Pension Administration, Finance and Legal on recovery of underpayments. The next Project Board meeting takes place on 16 November 2020.

### **Report contact:**

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