

FIREFIGHTERS' PENSION SCHEME

WEDNESDAY, 26TH NOVEMBER 2025

Jane Marshall



FIREFIGHTERS' PENSION SCHEME

CAS-76722-Z3Z9

Mr T

Cheshire Fire & Rescue Service



CAS-76722-Z3Z9

Background

- Mr T was employed in 2002 by Staffordshire FRS as a retained firefighter
- As a retained firefighter he was not eligible to join the 1992 Scheme
- Mr T then joined the 2006 Scheme as a retained firefighter
- In 2007 Mr T commenced a secondary period of employment with Cheshire FRS as a wholetime firefighter and joined the 2006 Scheme
- In 2014 Mr T was sent an expression of interest form by Staffordshire FRS to join the Modified Scheme in relation to his retained service
- Mr T completed and returned the expression of interest form to Staffordshire FRS

Background

- Mr T elected to join the Modified Scheme as a “retained special member”, and his membership of the Modified Scheme covered the period of his service with Staffordshire FRS from 2002 to 6 April 2006
- Mr T also elected to transfer his post 6 April 2006 retained service into the Modified Scheme
- Whilst helping a colleague at Cheshire FRS in 2018/19, Mr T became aware that his colleague had been given the opportunity to transfer his wholetime service (as well as his retained service) from the 2006 Scheme to the Modified Scheme. Mr T had not been offered this opportunity

CAS-76722-Z3Z9

Background

- Mr T submitted a stage one IDRP complaint in January 2021
- In May 2021 Cheshire FRS responded – the complaint was not upheld
- Amongst other things, Cheshire FRS argued that whilst the regulations gave a fire authority the discretion to allow for a fire fighter's wholetime service to be included within the Modified Scheme, this was only on the basis that the relevant authority required the firefighter to remain in a retained role, post 6 April 2006, while also taking up a wholetime role (Part 11, regulation 5A(2)(b)(iii) 2006 Scheme)

CAS-76722-Z3Z9

Background

- Cheshire FRS said it could not offer Mr T the option to include his wholetime service in the Modified Scheme, as it did not employ him as a retained firefighter. It was Staffordshire FRS that employed him as a retained firefighter
- Cheshire FRS distinguished Mr T's circumstances from that of his colleague, in that he was employed as a retained and wholetime firefighter by different authorities
- An informal view was been sought from the LGA and the Home Office, which confirmed that regulation 5A(2)(b)(iii) should only apply where the individual is wholetime and retained at the same FRS

CAS-76722-Z3Z9

Background

- Cheshire FRS also argued it was clear that the deadline for transferring wholetime pensionable service into the Modified Scheme needed to be actioned before 30 September 2015. There was no available discretion to facilitate a request after this deadline
- Mr T submitted Cheshire FRS had misinterpreted Part 11, regulation 5A(2)(b)(iii)
- He argued the regulation did not state that a firefighter's retained and wholetime employment had to be under the same fire authority for that authority to exercise the discretion available to aggregate an individual's pensions into the Modified Scheme
- Mr T submitted that Cheshire FRS was actively discriminating against him by not allowing him to aggregate his wholetime service into the Modified Scheme

CAS-76722-Z3Z9

The Regulations

5A Purchase of service during the limited period

(1) A person who satisfies the conditions specified in paragraph (2) may, in accordance with the following provisions of this Chapter, elect to pay pension contributions in respect of his service during the limited period.

(2) The conditions are that—

(a) the person is entitled to join this Scheme as a special member;

(b) the service is—

(i) as a retained firefighter; or

(ii) as a regular firefighter where he took up employment after 5th April 2006 as a regular firefighter immediately after the termination of his employment as a retained firefighter; or

(iii) with the agreement of the authority, as a regular firefighter, but not as a retained firefighter, where he had been employed by an authority as a retained firefighter and then required by that authority after 5th April 2006 to remain in employment as a retained firefighter whilst taking up employment as a regular firefighter.

CAS-76722-Z3Z9

Outcome

- Must consider principles of statutory interpretation – what was the legislative purpose of regulation 5A(2)(iii)?
- Retained firefighters who were denied access to the 1992 Scheme suffered less favourable treatment not only in respect of their service as retained firefighters in the period prior to 6 April 2006 when the 1992 Scheme was open to new members but also in respect of any later service as regular or wholetime firefighters after 6 April 2006 that qualified only for the 2006 Scheme, but could have qualified under the 1992 Scheme had they not been wrongly denied access to the 1992 Scheme prior to its closure to new members on 6 April 2006.
- The Modified Scheme was intended to provide full redress for this less favorable treatment.
- From the perspective of legislative intent, and the mischief the Modified Scheme was intended to address, the PO determined that it does not appear that the fact that Mr T was employed as a regular firefighter with a different authority to the one that employed him as a retained firefighter, should be material.

CAS-76722-Z3Z9

Outcome

- Mr T's complaint was upheld
- The PO found that Cheshire FRS had breached its statutory duty by failing to notify Mr T of the option to convert his standard service under the 2006 Scheme to Modified Scheme benefits
- The PO directed Cheshire FRS, within 28 days of the determination, to issue a notification and application form informing Mr T of his right to convert his standard service under the 2006 Scheme to Modified Scheme benefits
- On receipt of a completed application form, Cheshire FRS was to comply with the other provisions of the Modified Scheme in respect of the conversion of Mr T's standard service to Modified Scheme benefits
- Mr T was awarded £500 for significant distress and inconvenience



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