

PFEW Pensions Compensation Claim

How did PFEW reach this stage?

PFEW's executive team received expert legal advice about the 2015 transitional arrangements when considering a challenge. This advice suggested there was a poor prospect of a challenge being successful. After declining to mount a legal challenge, PFEW publicly stated we would regularly review PFEW's position. Following the refusal by the Supreme Court to allow the Government to appeal the ruling in respect of Judges and Firefighters, the Government conceded other similar claims and committed to rectifying the discrimination. PFEW sought assurances from Government that should compensation be awarded to claimants, the Government would mirror such awards to members who had been discriminated against - but had not lodged a claim. Government assurances were not given, and this is the reason for commencing legal action.

Why did PFEW not have to take similar legal action to that taken by the FBU and Judges?

PFEW declined to mount a legal challenge to the 2015 transitional arrangements because legal advice suggested there was a poor prospect of a challenge being successful. Following the 2018 FBU/Judges discrimination ruling, the Government announced it would rectify the pension position for ALL those affected when the 2015 scheme was introduced. This remedy will apply automatically to every qualifying PFEW member and meant legal action was unnecessary.

Is the PFEW compensation claim separate from the successful FBU/Judges court action in 2018 involving pension discrimination?

Yes. The successful action in 2018 by the FBU and Judges against the Government established that the transitional provisions of the new pension scheme in 2015 was discriminatory towards younger PFEW members who were not afforded the same protection provided to those nearest to retirement.

The principle of discrimination was first established after a Court handed down a ruling that the pension discrimination was unlawful in respect of Firefighters and Judges. In light of this ruling, the Government conceded that the transitional arrangements were also unlawful for Police Officers. This meant there was no longer any legal dispute that the unlawful act of discrimination had occurred, and that initial age discrimination claims were effectively proven with the remedy to be determined.

PFEW's new Group Action concerns qualifying members (who are not part of the independent pension challenge group) and potentially compensation relating to injury to feelings AS A RESULT of this discrimination.

Will PFEW fund legal costs for members who have independently initiated separate legal proceedings about pension discrimination?

While individual members had the right to obtain legal representation independently of PFEW regarding this decision, the cost of this is independent and was not at any stage the responsibility of PFEW. We previously met with the main independent pension challenge group before legal proceedings were launched and clearly reiterated this stance. PFEW was not involved in agreeing the method of funding, rates or approach of any

third-party legal proceedings and therefore had no control over any of the costs incurred. To fund third-party expenses, PFEW would have to retrospectively cover a significant legal bill which could exceed PFEW's entire legal budget for one year. This would not be possible.

Will PFEW negotiate with those involved in separate legal proceedings?

PFEW held meetings and had conversations with independent pension challenge group representatives on a number of occasions. These discussions were not publicised as we agreed in advance these would be confidential. We now need to look ahead to ensuring eligible PFEW members are included in this new group action.

How much will this legal action cost PFEW?

The cost of the claim is commercially sensitive and therefore cannot be shared. We are comfortable that costs will be covered by our existing claims budget and will not impact on our ability to successfully represent members who are facing other legal issues.

What exactly is a Group Action?

Group Action Litigation is the term to describe what may be called Class Action or Collective Redress Actions in other jurisdictions. Group Actions are a way for individuals with similar complaints to join together against an alleged wrongdoer. They offer strength in numbers, and potential savings on legal costs, plus a sharing of the risks involved.

Key Advantages of Group Actions

Through being part of a Group, legal advice and documentation is shared equally with every claimant. Test cases are often selected from within the group, so the rest of the group members may benefit from decisions involving those cases.

How can I participate in the Group Action?

PFEW has created a jargon-free, two stage process for eligible members to apply on either a mobile phone, laptop or tablet device. After filling in an online consent form and questionnaire, they will then be contacted via their personal email address following a validation process. Applications must be completed online before the **July 17 deadline**. Following the application process, members will be advised about their eligibility by our solicitors. We will contact members in due course.

How much will this cost me?

There is no requirement for any additional funding to come directly from members. PFEW will fund this legal action entirely from the organisation's existing funds. Provided members abide by the terms of Group Action, PFEW does not expect to ask members to contribute towards the costs.

What is the outcome if the Group Action is successful?

Group Action members and those who have not lodged a legal claim as a result of discrimination in relation to transitional pension arrangements, plus all those affected as a result of the unlawful discrimination, will

be seeking compensation. This will be agreed by negotiation between PFEW and the Government and failing that, the Tribunal will determine the sum. It is likely that this will be a modest sum, possibly a fixed sum per officer.

What is the outcome if the Group Action is unsuccessful?

The reality is that PFEW cannot predict the ruling of the [Tribunal](#). The Tribunal could decide that members are not entitled to any compensation for injured feelings

If I don't join now, can I join later?

A bulk claim is the most effective way in order to keep the Group Action claim affordable. Claimants must therefore apply by **July 17** to be considered.

Will my personal details be published?

Details will only be shared with Penningtons Manches Cooper, ACAS, the tribunal and possibly your force.

Where do I get any further information, or ask more specific questions about this Group Claim?

Our PFEW Pension Compensation Claim FAQ page will be updated regularly. You can contact us directly by emailing pensionclaim@polfed.org and PFEW members will be contacted in due course and invited to join the Group Action via a two-step process.

Can members who are already pursuing claims transfer to the PFEW Pensions Compensation Claim?

If you have already issued a claim in the Tribunal, you cannot issue a second claim. Equally, you should not withdraw that claim with a view to issuing a new claim as part of the PFEW Pensions Compensation Claim. Both of these would be an abuse of process.

If you have already issued a claim and wish to apply to PFEW for funding of that claim and to be represented by Penningtons Manches Cooper, such applications will be considered on a case by case basis, taking into account, but not limited to, the following:

- Your eligibility for PFEW funding
- The PFEW's funding criteria, including a costs/benefit analysis
- Such further conditions and parameters of funding as PFEW considers appropriate and reasonable in the circumstances,
- Practical considerations, including the timing of any such application and proposed change in legal representation so as to cause the least amount of disruption to the timetable of an existing claim and other claims being pursued

It should be noted that if you are already being legally represented in your claim, you will be responsible for making arrangements to terminate your retainer with your current representative and settling any outstanding fees with them, if and when PFEW funding is confirmed.

If I was required to transfer into the 2015 Scheme, and instead I decided to opt out of a Police Pensions Scheme can I still bring a claim?

Where an individual opted to leave the Police Pension Scheme, and did not join an alternative pension scheme, it is likely to be difficult to establish a link between the decision to opt out and the discrimination. This is because the officer will have elected to put themselves in a worse position by being out of a pension scheme altogether, than transferring into the 2015 Scheme. If you opted to join another scheme, to mitigate the loss from opting out altogether, and can prove that the reason you decided to leave the Police Pension Scheme was because of the transitional provisions, then you may have grounds to bring a claim, although any such claim may now be out of time. Any such claim would require evidence of the reason for your decision in order to be considered further.

Due to this advice it also means that officers who opted out at some point or period after the 2015 scheme took effect will not be able to make any claims to be reinstated into the 2015 Scheme for the time they chose to opt out. As already highlighted if you opted to join another scheme, to mitigate the loss from opting out altogether, and can prove that the reason you decided to leave the Police Pension Scheme was because of the transitional provisions, then you may have grounds to bring a claim, although any such claim may now be out of time. Any such claim would require evidence of the reason for your decision in order to be considered further.

Am I eligible to join the Group Action Claim?

Eligible applicants are those who:

- commenced payment of subscriptions within six months of joining the police service and have been a continuous subscribing member since that date (except for any period of unpaid leave, maternity leave or temporary promotion to the rank of Superintendent) or until they exited the Police Service and
- who were in service prior to and as at 1 April 2015 and in a police pension scheme at that time and
- who transferred into the 2015 Scheme immediately or who received tapered protection and
- who did not therefore receive full protection from having to move into the 2015 scheme.

Claimants must also not have previously lodged a legal claim as a result of discrimination in relation to transitional pension arrangements. Eligibility will be subject to further verification by PFEW and/or Penningtons Manches Cooper LLP.