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Our Reference: DCDS PERS PCV 05.09.12.01.01

Date 17 August 2009

Dear

CONSULTATION DOCUMENT: PROPOSED AMENDMENT TO ARMED FORCES PENSION PROVISION

1. At the Central Advisory Committee (CAC) meeting on 10 December 2008 I outlined the scope of the harmonisation project which aims to:

- Consolidate the Armed Forces Pensions Scheme 1975 (AFPS 75) provisions contained in the single Service prerogative instruments into one document, ironing out inconsistencies whilst doing so; and
- Remove non-pensions provisions from the pension scheme to meet the requirements of the 2004 Finance Act and draft new instruments so that they can stand independently.

You have already commented on AWOL proposals for the consolidation exercise and resettlement commutation in respect of the re-homing of non-pensions provision, for which, thank you. The purpose of this letter is to ask for your views on how we propose to treat those who opt out of AFPS 75.

Issue

2. We seek to remove the entitlement of personnel who have chosen not to be members of AFPS 75 to benefit under the scheme.

Background

3. The rules for AFPS 75 are contained in three prerogative instruments, one for each Service:

- The Naval and Marine Pay and Pensions (Non-Effective Benefits and Family Pensions) Order 2009 ;
- The Army Pensions Warrant 1977; and
- Queens Regulations for the Royal Air Force, Chapters 38-48.

The harmonisation work involves ensuring that the existing provisions are mapped over to the new legal document. Where the need for change is identified and that change could be disadvantageous to any member, we write to members of the CAC and copy the letter on our website in order that other interested parties may comment.

4. We have found two rules which relate to people who have opted not to be members of AFPS 75 who then die in service. The first provides that a lump sum would be paid in a sum equivalent to three times the pension the deceased would have earned had he chosen to be a member. The second provides that a pension will be paid for either 91 day or 182 days, depending upon how many dependants the individual had. The value of the pension would be equal to the amount of pension the deceased would have been entitled to had he chosen to be a member.

5. Irrespective of the fact that AFPS 75 is a non-contributory pension scheme, from which people do not tend to opt out, it does not seem reasonable to pay benefits to people who have chosen not to be scheme members and have no benefits accrued in the scheme.

6. Should an individual opt out but not transfer his or her accrued benefits out of the scheme, there are specific rules in place to say how they are dealt with. In this event they would be treated:

- as preserved pensions if the individual were to leave before having completed 16 years service for age 21 as an officer or 22 years service as an other rank (the immediate pension point); or
- as immediate pensions if the individual serves to the immediate pension point. The immediate pension would be based on the reckonable service given and the rank held before the individual opted out.

In each case the individual is getting what they have earned.

7. To the best of our knowledge we have nobody currently in regular service who has opted out and we will make sure that, if we were to get such an application in the future, the individual will be contacted to ensure that they had considered taking financial advice.

8. The new pension schemes, AFPS 05 and the Reserve Forces Pension Scheme, do not provide benefits for those who have opted out. Pension scheme membership is not an issue in the event of attributable death or incapacity: the Armed Forces Compensation Scheme is designed to accommodate Service personnel, whatever pension arrangements they choose to make.

Conclusion

9. We propose that:

- the current provisions which allow benefits to be paid to personnel who have opted out of AFPS 75 should be removed with effect from 6 April 2010; and
- that the provisions relating to those who opt out and do not transfer benefits out of the scheme remain in place.

If you have any comments on these proposals we would be very happy to received them. I should be grateful if you would let us have them by 30 October 2009.

Yours sincerely,