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The Armed Forces pension schemes

Pensions Policy Instruction

PPI 4/06
(version 2.2)

March 2007

What this is about:	Revised forms and procedures for the Early Payment of Preserved Pensions and Pension Increases due to ill-health.
Which pension schemes are affected:	The Armed Forces Pension Scheme 1975, the Armed Forces Pension Scheme 2005, the Reserve Forces Pension Scheme.
Who should read this:	AFPAA (Central office), AFPAA Pension's Staff, EDS Pension's Staff, Medical Advisors.
When it takes effect:	Immediately. **This PPI superseded PPI 2/05**
Cancellation date:	
Contact points:	MB 81823 SP Pol (Pens) 3e

Revised forms and procedures for the Early Payment of Preserved Pensions and Pension Increases for members of the Armed Forces Pension Scheme 1975 (AFPS 75), members of the Armed Forces Pension Scheme 2005 (AFPS 05) and the Reserve Forces Pension Scheme (RFPS).

Purpose

1. The purpose of this instruction is to introduce revised forms and procedures for AFPAA to use in the decision making process in respect of members of the above mentioned pension schemes who wish to apply for the early payment of their preserved pension or pension increases, before they would normally be applied due to ill-health. These forms and procedures have been reviewed by SP Pol (Pensions) and after a trial period are now to be implemented.

2. This instruction is for lay decision makers in the administration of early payment of preserved pension (EPPP) and Pension Increases (PI's) requests and for medical advisers who provide medical information or advice to the lay decision maker.

Rules

3. The rules for the early payment of preserved pension and pension increases have been amended and are contained in the following prerogative and statutory instruments.

a. **AFPS 1975 - Early payment of Preserved Pension**

- The Naval and Marine Pay and Pensions (Pay and Allowances) 2006 (Schedule IV, Section 1, Para 4).
- The Army Pensions Warrant 1977 (Part 3, section 7, para147a).
- The Queen's Regulations for the RAF (Chapter 40 Para 3061(2)).

RN wording – "*The preserved pension and preserved terminal grant will normally be paid when the officer, rating or other rank attains pension benefit age, though payment may be made earlier if the pensioner becomes permanently incapacitated through physical or mental infirmity from engaging in any regular full-time employment. Preserved pension benefits accrued by reference to service before 6 April 2006 shall be put into payment when the officer or rating reaches the age of 60. Preserved pension benefits accrued by reference to service on or after 6 April 2006 shall be put into payment when the officer or rating reaches the age of 65 but they may elect to receive this element of their pension on an actuarially reduced basis when they reach the age of 60.The preserved pension, when paid, will be adjusted in accordance with such pension increase measures as are applicable at the time of payment and the preserved terminal grant will be similarly adjusted. Early payment of entitlement shall commence from the date that a successful claim was submitted, unless the Secretary of State decides otherwise. If an applicant for early payment of preserved pension dies before payment has been authorised, the processing of the application should cease and arrears of pension shall not, subject to any exception which the Defence Council may approve, be allowed to be paid to the applicant's estate.*" The detailed rules for the Army and RAF are slightly different but fundamentally the same; these will be brought into line in the harmonisation exercise.

b. **AFPS 1975 – Pension Increase (From age 55)**

- The Naval and Marine Pay and Pensions (Pensions Increase) Order 2005 (Para 2e).
- The Army Pensions Warrant 1977 (Part 12, section 25, Para 361d).
- The Queen's Regulations for the RAF (Chapter 43 Para 3152 (4)).

RN Wording – "*A pension to which this Schedule related may be increased provided either that ……. (e) the pensioner is permanently incapacitated by physical or mental infirmity from engaging in any regular full-time employment".*

c. **AFPS 2005 - Early payment of Preserved Pension**

- The Armed Forces Pension Scheme (Amendment) Order 2006 (4(3).

Wording – "*A former active member is entitled to immediate payment of a pension and a lump sum before reaching pension age of 65 if……(a). in the opinion of the Secretary of State ,the member has suffered a permanent breakdown in health involving incapacity for any full-time employment (see rule D.5(2) and (3)), (aa)…. the Secretary of State has received evidence from a registered medical practitioner that the member is (and will continue to be)incapable of carrying on his occupation because of physical or mental impairment.".*

d. **RFPS - Early payment of Preserved Pension**

- The Reserve Forces Pension Scheme (Amendment) Regulations 2006 4(2) a.

Wording – "*An active member who ceases to be in Service by virtue of which he is eligible to be an active member of the Scheme is entitled to immediate payment of a pension and a lump sum before reaching pension age of 65 if ……. (a) in the opinion of the Secretary of State the member has suffered a permanent breakdown in health involving incapacity for any full-time employment (see rule D.5(2) and (3)), (aa)…… the Secretary of State has received evidence from a registered medical practitioner that the member is (and will continue to be)incapable of carrying on his occupation because of physical or mental impairment.".*

e. Pension Increase (From age 55)

No facility exists under AFPS 2005 and RFPS for Pension Increases

Background and Policy Intent

4. A key thrust of the social welfare agenda is that more people should be in work. Paid work is good for health and well-being and many people with chronic illnesses or disability would both like to and could manage paid work. It is now illegal for employers to discriminate against people with illness or disability.

5. MOD is also committed to coherence across government. A key aim of the

social welfare programme is that work is good for our health and action is being taken to ensure that, wherever possible, and that regardless of age, people with chronic illness or disability are supported into work. This is supported by anti-discriminatory legislation. Recent papers from the Department for Work and Pensions (DWP) and the Department for Health (DH) considers especially the position of people with minor non psychotic mental illness, symptomatic disabling illness without organic cause and the pain syndromes eg low back, neck or lower limb to be situations where ill health retirement etc should be a last resort.

6. The intent of the policy is that the early payment of preserved benefits will be appropriate where the applicant is permanently, (ie until normal retirement age or in the case of early payment of pension increases total age 55) incapable of undertaking any form of regular full-time employment, which is appropriate to their skills and training.

7 The test is applied on the claimant's condition at the date of claim. It should be noted that no retrospective claims will be considered. At that date there must be incapacity for any suitable full-time work until age 60 years for service accrued before 6 April 2006 and 65 for service accrued after this date for AFPS 75, AFPS 05 and RFPS members. For those seeking early payment of pension increase the age is 55. A person might be able to work part-time and still meet the criteria for EPPP. Likewise a person might be at the request date very ill and unable to do any work full or part-time, but unless there is confirmation of a stable or worsening state until normal retirement age, EPPP should not be agreed

8. The consideration of employability of the individual should not take into account the local economic and employment situation but should be considered solely in light of skills and training ie actual and which could reasonably be achieved following appropriate retraining. The social circumstances of the individual are equally not part of the equation.

9. The standard of proof to be applied is the balance of probabilities (ie more likely than not).

10. For the purposes of the schemes it is a lay decision whether an individual is permanently incapable of undertaking full-time employment. The decision should be medically informed and based on an evidence based report on the applicant's overall functional capacity. 'Medically informed' can be, information obtained from a medical synopsis or, advice from a medical adviser; but see paragraph 18 where it is mandatory to seek advice from a medical adviser.

Lay Decisions

11. As in the insurance industry and civilian disability benefits it is expected that many decisions can be adequately made by lay staff. However there will be occasions where some advice/support from medical advisers will be appropriate. There is a separate annex A (notes for Medical Advisors on EPPP requests)

attached to the PPI for medical colleagues who advise on cases. This should be provided in all cases as the MA should state that they have made their decision using the correct standard of proof and that they have seen the notes.

12. The decision taken on whether an applicant meets the criteria for the early payment of preserved pension or pension increase will be a lay decision approved at Band D level.

13. Lay decision makers need to note the following:

- It should be unusual to grant EPPP in someone much younger than normal retiral age. Please be especially careful if considering a case of a non malignant condition, including mental disorders. There may yet be time for a response to present or different or even some new as yet untested treatment. The younger the person is the more likely an improvement.

- Malignant conditions - Such requests will need to be dealt with especially quickly. However, again, please bear in mind that therapeutic advances mean that people are surviving longer and in reasonable health. It is important therefore not to grant EPPP too soon after diagnosis when there is reasonable prospect of return to reasonable health and function. Treatment of cancer can make people very unwell but the situation is temporary.

- There are no categories of case or condition where referral to a medical adviser is mandatory nor always unnecessary but mental disorders, fatiguing or pain disorders eg chronic fatigue syndrome, fibromyalgia or low back, neck or knee pain lacking objectively verifiable signs may be challenging. Similarly it may be worthwhile discussing cases where GP evidence is scanty eg the patient has recently joined the practice or where there has apparently been little contact

- You should also usually discuss cases where you feel that clarification/more information is required. This may be from the GP or hospital case notes may be helpful. The medical adviser who may also help interpret hospital case notes. These can only be collected if there is express permission from the claimant, so please check that he/she has signed the consent form.

Advice on Claims Form and GP Form

14. Specimen forms for completion by the claimant and GP are attached. The intention is to record the diagnosis and its effects on function at the date of claim. The claimant form importantly includes final consent to release personal information. It is important to check that this has been signed and dated.

15. Where the GP refuses to provide information regarding the individual's ability to undertake employment, in exceptional cases such as when they fear for their safety due to a violent patient, the medical adviser may ask the individual to attend a medical board.

Use of Medical Synopsis

16. To support robust quality decisions MOD has recently commissioned a series of medical synopses, covering about 100 topics including those likely to occur in the armed forces population. These were written by authors independent of MOD and validated by senior clinicians nominated by the Royal Society of Medicine. Their main focus is causation and prognosis. They will be published on MOD website in January 2007. Their contents will be kept under review and modified in the light of emerging medical understanding. In addition, they will be routinely reviewed and, as appropriate, revised in a further edition about every 4-5 years.

17. Lay decision makers and medical advisers are to consult the medical synopsis in all cases.

Seeking Medical Advice

18. It is envisaged that in the majority of cases lay decision makers, with the assistance of medical synopsis, should be able to make a decision. However in some cases medical advisers within AFPAA can be consulted in cases requiring medical advice on initial application or on review. It is not mandatory to seek medical advice, except in cases were medical advice has not been obtained and it is subject to appeal. The Medical Advisers are to note and comply with Annex A.

Medical Fees

19. *Exemption* - The MOD is exempt from the payment of administrative charges associated with the copying of hospital case notes due to a Service Level Agreement with the NHS.

20. *Consultants fees* - Individuals may if they so wish provide additional medical evidence (ie Consultant report) however, the MOD will not be responsible for meeting these costs. Where the MA requests a report by a Consultant, the cost may be refunded if the Consultant raises a charge and the cost is not exempt from the Service Level Agreement.

Reason for Decision – Record

21. The decision maker must clearly record the reasoning behind their decision on the case file and also confirm that the case has been considered using the balance of probabilities standard of proof.

Applications

22. On receipt of an application for early payment, the standard letter Annex A should be sent by AFPAA(EDS) to the claimant, which requests them to complete the appropriate Annex B (application for EPPP or PI) together with Annex C (Formal Consent to Release Personal Medical Information).

23. On return of Annex B and Annex C, AFPAA(EDS) are to ensure that Annex B is fully completed and that Annex C is signed by the claimant to give formal consent for the release of personal medical information. Claims should not be processed further until the forms are satisfactorily completed. AFPAA(EDS) are to transfer the information at Annex B sections 1 and 6 to the appropriate Annex D (Certificate of Assessment of Permanent Incapacity), section 1, (parts a and b). Annex D should then be sent to the individual's General Practitioner under cover of Annex E (standard letter to GP).

24. Where AFPAA approve early payment, the individual should be informed by AFPAA(EDS) using the standard letter at Annex G the pension is awarded from the day after the application for early payment is received by AFPAA.

25. In event of a rejection, AFPAA(EDS) should advise the applicant of the decision and advise the minimum period before a review would normally be considered. Cases which have been rejected will not normally be reviewed within less than one year from the date of rejection letter. However the decision to carry out review will be the lay decision makers discretion based on the individual's condition and the facts of the case (this may include advice form a medical adviser). This time scale may be reduced eg if there is a marked deterioration of the health of the individual or if any new conditions are diagnosed. AFPAA(EDS) are to send a standard letter (Annex F) and advise of the route of appeal if rejected.

Reviews Where Early Payment of Preserved Benefits Have Been Approved

26. AFPS 2005 and RFPS both contain a rule to allow the review of the early award of preserved benefits.

- The Armed Forces Pension Scheme Order 2005 (D.9 (5)).

Wording – "*If, on a review under this rule in the case of a member who is entitled to a pension under rule D.7, after consultation with the Scheme medical adviser, the Secretary of State is not of the opinion mentioned in paragraph (1) (a) of that rule, the Secretary of State may determine that the member is to cease to be entitled to a pension under that rule at the end of the day on which the determination is made.*"

- The Reserve Forces Pension Scheme Regulations 2005 (D.9 (1) (a/b)).

Wording – "*This rule applies if ……. (a) a member is entitled to a pension*

under rule D.5, D.6 or D.7, and (b) it appears to the Secretary of State that there is evidence that he would not be of the same opinion as to the member's condition if he reconsidered the question as the opinion by virtue of which the entitlement arose"

27. The AFPS 1975 currently does not contain a rule regarding review; the Scheme rules will be amended to bring these in line with AFPS 2005.

28. There are no plans at present to periodically review awards of early payment.

Reviews/Appeals

29. Claimants who wish to seek a review due to new or previously unavailable evidence should submit their evidence to the original reviewing officer in AFPAA (at Band D level).

30. Appeals will be considered by the two tier internal appeal procedure involving the Discretionary Awards Procedure (DAP) and the Discretionary Awards Appeals Procedure (DAAP). See separate Annex B attached to PPI.

31. The procedures for appeal are as follows *(after process at para 29 completed, if appropriate)*

- Appeal received by AFPAA

- Forward Temporary Enclosure Jacket (TEJ) to SP Pol (Pens)

- Sp Pol (Pens) to consider appeal and seek further medical advice before submitting to the Discretionary Awards Procedure (DAP) with recommendations. Required medical advice will be sought from DSP Pol (Pens) (Medical Adviser)

- If the applicant wishes to appeal further to the DAAP, AFPAA are to forward the case file to SP Pol (Pens) who will submit to the DAAP (Band B/OF5).

- SP Pol (Pens) will write to the applicant with the result of their appeal and reasons for rejection or approval.

- The claimant if they so wish may appeal to the Pensions Ombudsman

- SP Pol (Pens) staffs MOD response to Pensions Ombudsman

Records

32. AFPAA are to keep a record of the number of cases which are approved/rejected in each calendar year. This also includes all DAP/DAAP cases. Given the type of PQ's we are currently being asked, records should be retained for a period of 25 years.

Annex A

NOTES FOR MEDICAL ADVISORS ON EPPP REQUESTS

A key thrust of the social welfare agenda is that more people should be in work. Paid work is good for health and well-being and many people with chronic illnesses or disability would both like to and could manage paid work. It is now illegal for employers to discriminate against people with illness or disability.

The MOD is also committed to coherence across government. A key aim of the social welfare programme is that work is good for our health and action is being taken to ensure that, wherever possible, and that regardless of age, people with chronic illness or disability are supported into work. This is supported by anti-discriminatory legislation. Recent papers from the Department for Works and Pensions (DWP) and the Department for Health (DH) considers especially the position of people with minor non psychotic mental illness, symptomatic disabling illness without organic cause and the pain syndromes eg low back, neck or lower limb to be situations where ill health retirement etc should be a last resort.

For the purposes of the scheme it is a lay decision whether an individual is permanently incapable of undertaking full-time employment. The decision should be medically informed and based on an evidence based report on the applicant's overall functional capacity. This may include advice from the GP or from you as the Medical Advisor.

The intent of the policy is that the early payment of preserved benefits will be appropriate where the applicant is permanently, (ie until normal retirement age) incapable of undertaking any form of regular full-time employment, which is appropriate to their skills and training.

The test is applied on the claimant’s condition at the date of request. At that date there must be incapacity for any suitable full-time work until age 60 years for service accrued before 6 April 2006 and 65 for service accrued after this date. For AFPS 05 &RFPS members there must be incapacity for any suitable full-time work until age 65 years for all service. A person might be able to work part-time and still meet the criteria for EPPP. Likewise a person might be at the request date very ill and unable to do any work full or part-time, but unless there is confirmation of a stable or worsening state until normal retirement age, EPPP should not be agreed

The standard of proof to be applied is the balance of probabilities (ie more likely than not).

Some General Adjudication Guidance

The MOD has prepared synopses written by medics independent of MOD and externally validated by senior clinicians nominated by the Royal Society of Medicine. They contain a summary of contemporary, generally accepted medical

understanding of causes of the conditions based on the published peer reviewed evidence. They also include a section on prognosis which should be helpful for EPPP cases. They are relevant to all MOD pensions and compensation jurisdictions.

Medical Advisors should ensure that they refer to these when considering and providing advice.

General Practitioner Form - Advice on Interpretation

On page 1 the section on medical information is especially useful. It is often less important to know the action of drugs being prescribed as to know that the person is on treatment and in contact with the GP.

Section 2 part b tries to focus on activities which are likely to contribute to a person's capacity for full time paid work.

Giving Advice to the Lay Decision Maker

When giving your advice you should state that you have used the balance of probabilities standard of proof. You should also provide as much evidence as possible to back up your recommendation.

Annex B

Discretionary Awards Procedure (DAP)