

## **FIREFIGHTERS' PENSION COMMITTEE**

### **NOTE OF THE 20<sup>th</sup> MEETING OF THE FIREFIGHTERS' PENSION COMMITTEE HELD ON 17<sup>th</sup> JANUARY AT ELAND HOUSE, BRESSENDEN PLACE, LONDON**

( A list of the attendees are attached in Annex A)

#### **1. Introduction**

- 1.1 The Chairman welcomed Dean Mills who was representing the FBU on behalf of Paul Woolstenholmes.

#### **2. Minutes of the 19th FPC meeting**

- 2.1 Chris Large of APFO noted that the references to him in paragraph 5.10 and to Ian Hayton of CFOA in paragraphs 5.2 and 5.8 of the minutes had associated them with incorrect organisations.
- 2.2 Will Davies of ALAMA said that paragraph 6.1 did not adequately reflect his views and he undertook to send a letter of correction. The Chairman agreed that any letter should be attached to the note of the meeting.
- 2.3 Subject to the amendment requested in paragraph 2.1, the minutes of the 19<sup>th</sup> FPC meeting were agreed.

#### **3. Matters arising from the 19th FPC meeting - FPC(07)1**

- 3.1 *45/60<sup>th</sup> Cap on transfers* - The Chairman introduced paper FPC(07)1. He said that at the last meeting members were advised that the cap of 45/60ths for members of the FPS transferring into the NFPS during the Options exercise had been imposed by HM Treasury. He made reference to the letter that he sent to FPC members on 19 December and said that this set out the conditions that had been agreed with HM Treasury. The letter, which was attached to Annex A, also included the table of factors to be used for transfers during the options exercise.
- 3.2 The Chairman also said that the impact of the 45/60<sup>th</sup> cap on transfers would affect those who joined the FRS in their early to mid 20's and would not be able to transfer their service into the NFPS. He had discussed this with HM Treasury who were not willing to allow any more beneficial transfer terms to be offered as the existing terms for the options exercise were considered already to be more generous than those allowed for any other Public Sector Pension Schemes.
- 3.3 Ivan Walker of Thompson's asked whether the table of transfer factors for the Options exercise was available to firefighters. The Chairman said that the table and guidance had been circulated in a FPSC circular and that it had been published on the pension's section of the DCLG website where it could be downloaded.

- 3.4 Ivan Walker also asked whether there would be any flexibility to accept a FPS member's transfer into the NFPS if their service, when converted, exceeded the 45/60ths cap and they were willing to accept the maximum 45/60ths. The Chairman responded by saying that there were no provisions within the transitional arrangements that would allow this. He said that if there was evidence that this was a problem for many FPS members then DCLG would be prepared to revisit the issue.
- 3.5 Derek Chadbon of RFU asked the Chairman whether the 45/60<sup>th</sup> cap applied to firefighters who had membership in both schemes i.e. as a regular firefighter in the FPS and as a retained in the NFPS. The Chairman responded by saying DCLG's view was that firefighters who were members in both schemes could accrue up to a full pension in each scheme. He also confirmed that HM Treasury had agreed that where firefighters' had dual membership in the NFPS and subsequently exceeded the 45/60<sup>th</sup> cap, contributions could be refunded.
- 3.6 *Ill-Health Retirement in LGPS* - Ivan Walker of Thompson's confirmed that the reference to LGPS Regulation 27(1) in paragraph 4 of committee paper FPC(07)1 was the regulation to which he was referring to at the last meeting. Whilst he did not dispute that the LGPS Regulations do not explicitly state that in the absence of a suitable vacancy a member can be ill-health retired, it was his understanding that local authorities considered that where no suitable vacancies were available then the member would be ill-health retired. He also referred to pension's circular FPSC 11/2006 and said that the FBU did not accept DCLG's guidance that a member should not be ill-health retired when no suitable alternative vacancy was available.
- 3.7 Glyn Morgan of FOA supported this view and said that the FOA would want to challenge any decision where a member was denied access to the pension scheme due to the absence of a suitable post.
- 3.8 Will Davies of ALAMA also expressed his concern that prior to the guidance issued in circular 11/2006, FRAs were ill-health retiring members who had been assessed as permanently disabled for fighting fires but not for other role related duties if no other suitable job was available and that this situation had changed.
- 3.9 The Chairman said that the guidance given in circular 11/2006 clarified DCLG's view of the pension scheme. It could not be an interpretation of the Scheme. The decision of whether or not to retire a member on an ill-health pension remained with the FRA. The question of whether a member, who does not qualify for ill-health retirement, can be dismissed if no suitable job is available was an employment matter and not for the pension schemes.

#### **4. New Firefighters' Pension Scheme - FPC(07)2**

- 4.1 The Chairman advised members that the Order for the new pension scheme together with the two consequential amendment Orders had

been made. He said that due to a fault with the Stationery Office's SI template there were errors in the numbering on the NFPS Order. DCLG lawyers were currently discussing with TSO whether a correction slip should be issued or whether an amendment order would be necessary. A draft order has been prepared and attached to the Committee paper.

- 4.2 Tam Mitchell of the FBU asked for clarification of a Q&A briefing that had been circulated in Scotland which stated that there was no employer's pension contribution. Jim Preston was not aware of the document which it was assumed came from Strathclyde. The Chairman confirmed that the employer's contribution rate for the NFPS in England was 14.2% which also included an element for the cost of ill-health retirements. A similar cost would apply in Scotland and Wales.
- 4.3 Tam Mitchell asked whether interest would be paid on refunded contributions where members of the FPS choose to join the NFPS during the Options exercise. The Chairman confirmed that no interest payments would be made on refunded contributions.
- 4.4 Tam Mitchell also asked if sick leave for retained members was pensionable in the NFPS and whether payments that were made to retained members to compensate for loss of earnings in their primary employment due to injuries received during their retained duties was pensionable. The Chairman confirmed that paid sick leave was pensionable and unpaid sick leave was not pensionable. He said that any payment paid to compensate for loss of earnings in a member's primary employment was not pensionable.
- 4.5 Derek Chadbon of RFU referred to paragraph 3.6 of the minutes of the 19<sup>th</sup> meeting and asked when the standard transfer factors for the NFPS would be available. The Chairman said that he expected the transfer factors to be available at the end of January and that they would be sent out in a circular as soon as they were received by DCLG: GAD had been unwilling to provide them until after the NFPS Order had been made.
- 4.6 Chris Large of APFO referred to paragraph 5.10 of the minutes of the last meeting and conveyed Des Prichard's thanks for the letter that the Chairman had written to him regarding eligibility for scheme membership. APFO remained of the view that the eligibility criteria set out in Part 2, paragraph 1(a) of the NFPS Order were discriminatory. Senior managers should be eligible for membership as they can be trained for managing incidents and would attend incidents. He requested sight of any equality assessments that had been carried out. The Chairman responded by saying that DCLG had taken care when developing the NFPS to ensure that the Scheme did not discriminate on the basis of age or gender and no equality assessment had not been considered necessary. HM Treasury had been concerned that the eligibility criteria were not sufficiently restrictive. It was likely that if APFO pressed the point separate arrangements for firefighters would be brought to an end.

- 4.7 Ivan Walker of Thompson's asked the Chairman for an update on the discussions regarding membership of the NFPS for emergency control staff. The Chairman said that the scheme actuary had completed an initial report regarding the costs to the scheme and was waiting for a peer review. He said that as soon as DCLG received the report he would arrange a meeting with the FBU and others.

## **5. Age Discrimination - Oral Update**

- 5.1 Jim Preston of SPPA advised members that the Scottish Counsel had still not issued a formal decision but all indications are that Rule B1 can be objectively justified. He said that when a formal decision is issued it will be passed to DCLG.

## **6. Any Other Business**

- 6.1 Glyn Morgan of FOA asked the Chairman whether there had been any feedback from FRAs on whether they have all started the Options exercise. The Chairman said that the impression he got was that all FRAs had either issued or were about to issue the documentation. The Options exercise would close in England on 31<sup>st</sup> March 2007 regardless of when FRAs issued the documentation and that an extension of one month had been agreed for Wales to compensate for the fact that their NFPS Order would not be made until the end of March.

- 6.2 Derek Chadbon of RFU advised the Chairman that the different formats of options exercise documentation issued by FRAs had caused some confusion when answering questions from members. He asked whether there were any opportunities for DCLG to encourage common practice amongst FRAs. The Chairman said that DCLG would discuss with administrators and would consider whether any further standardisation of documentation was necessary but, as with the options exercise, FRAs had their own house styles which affected the formatting of documents. He would also consider whether further regional workshops were necessary.

- 6.3 Derek Chadbon referred to the consolidation of the FPS regulations and asked when this was likely to happen. The Chairman said that his team had two main priority areas of work. The first was the consultation on the review of the Firefighters' Compensation Scheme (FCS). This work was complex as the FCS had to dovetail with both the FPS and NFPS and there were some substantial differences between the two schemes. The second priority was the consolidation of the FPS regulations which would take place alongside the FCS consultation.

- 6.4 Derek Chadbon also asked whether there would be a commentary for the FCS and NFPS like there is for the FPS. The Chairman said that there were no plans to have a commentary for the FCS or NFPS but guidance would be issued on different aspects of the FPS, NFPS and FCS.

## **7. Dates of Future Meetings**

14 February 2007  
21 March 2007  
20 June 2007  
19 September 2007  
20 November 2007

***DCLG***  
***January 2007***

**Attendees**

|                            |                       |
|----------------------------|-----------------------|
| Martin Hill (Chairman)     | DCLG                  |
| Andy Boorman               | DCLG                  |
| Maggie Smith               | DCLG                  |
| Nitin Bhayani              | DCLG                  |
| Anthony Mooney (Secretary) | DCLG                  |
| Jim Preston                | SPPA                  |
| Ray Jennings               | LGA                   |
| Bertie Kennedy             | DHSSPSNI              |
| Dean Mills                 | FBU                   |
| Tam Mitchell               | FBU                   |
| Ivan Walker                | Thompson's Solicitors |
| Derek Chadbon              | RFU                   |
| Ian Hayton                 | CFOA                  |
| Chris Large                | APFO                  |
| Dr Will Davies             | ALAMA                 |
| Glyn Morgan                | FOA                   |

**Apologies**

|                     |                    |
|---------------------|--------------------|
| Eunice Heaney       | Consultant         |
| Terry McGonigal     | NIFS               |
| Fred Walker         | LGA                |
| Kate Williamson     | Scottish Executive |
| Terry McGonigal     | NIFS               |
| Jason Pollard       | Welsh Assembly     |
| Julia Letton        | Welsh Assembly     |
| Matt Wrack          | FBU                |
| Andy Dark           | FBU                |
| Paul Woolstenholmes | FBU                |
| David Hosking       | RFU                |