

FIREFIGHTERS' PENSION COMMITTEE

NOTE OF THE 40th MEETING OF THE FIREFIGHTERS' PENSION COMMITTEE HELD ON 13th APRIL 2011 AT ELAND HOUSE, BRESSENDEN PLACE, LONDON

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

1. Introduction

- 1.1 The Chairman welcomed everyone to the meeting, in particular Vickie Edwards of DCLG, Janet Thompson of the Welsh Assembly and Stephen Hunter of APFO who were attending the committee for the first time.

2. Notes of the 39th meeting

- 2.1 Ged Murphy of LGA made reference to paragraph 5.10 of the note and asked for an update on the current position of the amendment order. The Chairman confirmed that DCLG were still considering the details of the proposals and that there were still a number of internal stages to complete prior to consultation. He expected to issue the consultation document including the draft legislation within the next two to three months.
- 2.2 The note of the 39th meeting was agreed.

3. Matters arising from the 39th FPC meeting – FPC(11)4

- 3.1 The Chairman introduced paper FPC(11)4 which updated members on the items discussed at the 39th meeting held on 12th January 2011.

Restricting Pension Tax Relief: Scheme Pays

- 3.2 Under HMRC draft legislation members would be given the option of paying tax charges incurred from breaching the Annual Allowance through their pension scheme. This would mean that the pension scheme would pay the member's tax charge upfront and would claw back the money during the period that the member's pension was in payment. Further discussions were due to take place between Government departments and GAD in order to work out how an appropriate adjustment could be applied to the relevant member's pension.

Firefighters' Pensions: Pension Contributions

- 3.3 Please refer to agenda item 4.

Future arrangements for management of Committee

- 3.4 The Chairman updated members by confirming that responses had been received from the Scottish Government and the Department of Health, Social Services and Public Safety (Northern Ireland). Both responses supported the position that the FPC, led by DCLG, should remain a UK wide group with

representation from the Devolved Administrations (DAs). He explained that as the work of the committee focused on the administration and policy formulation of the English firefighter pension schemes for the Secretary of State it was critical to have the correct English business partners in attendance.

- 3.5 Jim Preston of SPPA said that without DAs attendance at the FPC it would be difficult to maintain clear links with a national firefighters' pension scheme. He also said that there would be problems with implementing the proposed increase in employee pension contributions from April 2012.
- 3.6 The Chairman explained that there was potential for different decisions to be taken with regards to the policy formulation of the future firefighter pension schemes given the different views of different Ministers. This would be even more important in light of Lord Hutton's recommendations on long term reforms of the public sector pensions and for DCLG it was important to discuss these with an English perspective for DCLG Ministers.
- 3.7 Jim Preston made reference to the current DAs elections and the uncertainty that would follow the appointment of any new administration. He suggested that the current arrangements should remain unchanged until further discussion had been had with regards to Lord Hutton's recommendations.
- 3.8 Terry Crossley of DCLG made reference to the Policy Review Group (PRG) which was the FPC equivalent for the Local Government Pension Scheme (LGPS) which did not have any representations from Northern Ireland or Scotland. He said that the PRG membership did include representation from the Welsh Assembly because the Secretary of State for Communities and Local Government was responsible for the LGPS in both England and Wales. He said that he remained unconvinced that there was a need to maintain a direct link between the FPC and the DAs. He reiterated the Chairman's comments by emphasising the need for the FPC membership to have direct representation from HR, finance and pension experts in England to inform and advise DCLG Ministers so that they could make effective decisions with regards to the firefighter pension schemes in England. The firefighter pension schemes in Northern Ireland, Wales or Scotland were not the responsibility of DCLG Ministers.
- 3.9 Jim Preston said that historically there had been very little difference between the firefighter pension schemes nationally which would suggest that there was a desire by stakeholders to maintain a uniform approach across the schemes. The Chairman responded by explaining that whilst it was important to consider what stakeholders wanted, it was Ministers in each DA who made the final decisions on whether or not, or to what extent, a uniform approach was maintained.
- 3.10 Ged Murphy suggested that the exclusion of the DAs from the FPC discussions could have tangential implications for the work of the National Joint Council (NJC). James Dalglish of LGA agreed with this but said that pensions were not a matter for the NJC.

- 3.11 Sean Starbuck said that the FBU as a trade union organisation represented all UK members and, therefore, would not want to see inconsistent levels of scheme benefits between England and the DAs. The FBU would want the link with the DAs to be maintained.
- 3.12 Gillian McMaster of DHSSPSNI suggested that there was no political appetite in Northern Ireland to move away from the route taken by the English firefighter pension schemes.
- 3.13 The Chairman concluded by emphasising that the issue needed to be considered within the context of the Government's agenda for promoting Localism and Decentralisation which actively encouraged decisions to be taken at the appropriate tier of responsibility. He said that DCLG would consider further and would raise it at the next meeting.

ACTION: DCLG to give further consideration to the membership profile of the FPC and to discuss at the next meeting

4. Budget 2011 Announcement – FPC(11)5

Lord Hutton's final report

- 4.1 The Chairman advised members that Lord Hutton's final report had been published on the 10th March. The report set out 27 recommendations for future public service pension reform. He said that the Budget 2011 announcement on 23rd March the Chancellor accepted Lord Hutton's recommendations as a basis for consultation with public sector workers. Members were invited to give their initial views. It was agreed that comments on Lord Hutton's recommendations would be non-attributable.
- 4.2 In discussion, the following informal points were raised with regards to Lord Hutton's recommendations, as set out in Annex of paper FPC(11)5:-

Recommendation 1 – noted without specific comment;

Recommendation 2 – noted without specific comment;

Recommendation 3

- There was a need to clarify what was meant by an 'adequate retirement income' and whether the level was pre or post taxation and commutation;

Recommendation 4

- There was a need to clarify what was meant by 'honour full pension promise';
- It could be argued that the Government's decision to use CPI for the future index linking of public service pensions was not honouring previous pension promises;

- It was suggested that the service accrued in existing schemes up to the date of transfer to a new scheme would be linked to the member's final salary on retirement;
- A member of the FPS 1992 with over 20 years service would currently be accruing 2/60ths per year i.e. double accrual. This would equate to a uniform accrual rate of 1/45ths if honouring accrued rights;
- Lord Hutton's report included a strong emphasis on protecting accrued rights. How far this recommendation is to be accepted would be a matter for the Government to decide;
- For some firefighters there can be significant career progression in the final ten years of their service. If accrued service in the current schemes was to maintain the link with the member's final salary (albeit in any new scheme) consideration should be given to making some form of adjustment to protect the existing schemes against increases in salary related to promotions;
- The suggestion that members benefit from significant career advancement in their last ten years of service was unfounded;

Recommendation 5

- In order to have an informed discussion more detailed information would be required on the potential benefits structure of any proposed new scheme;

Recommendation 6

- DCLG currently collected both financial and non-financial data as part of the process of managing the Pensions Top Up grant;

Recommendation 7

- Would need clarification on CARE accrual rates and mechanism for index linking each annual pension pot;
- It was likely that regular firefighters would have a different view with regards to the introduction of CARE arrangements than more senior officers;
- It was suggested that GAD should be asked to provide some illustrative examples to show how CARE arrangements would work and the effects on a member's pension benefits;

ACTION: DCLG to consider asking GAD to provide illustrative examples to show the effects of CARE arrangements on a member's pension benefits

Recommendation 8 – noted without specific comment;

Recommendation 9

- There was a strong case for introducing tiered contributions where pension benefits were linked to final salary. The case for introducing tiered contribution rates along with CARE arrangements was weak;
- There was an argument for introducing tiered contributions with CARE arrangements as this would ensure that the higher earners would be required to pay proportionally higher employee contributions for their pensions of which FRAs' total contribution remained very large in monetary terms;
- Many Chief Fire Officers were currently taking home less than 50% of their salary whereas other slightly less senior colleagues were taking home 65% of their salary;
- There wasn't a strong case for introducing tiered contribution rates. It was recognised that higher earners should expect to pay more but current proposals to increase contribution rates were too high;
- There would be other indirect implications which meant there could be risks in considering each recommendation in isolation;
- For the LGPS in England part-time workers paid the contribution rate set for the whole-time equivalent whereas in Scotland part-timers paid the contribution set by the level of their earnings;

Recommendation 10

- If retirement ages were to be increased it would be important to provide members with the choice to retire early if it suited them;
- Increased flexibility would benefit employers;
- There was a lack of consistency in the application of abatement to firefighter pensions within the Fire Service. Would strongly support Lord Hutton's recommendation to abolish abatement;
- The current FRA discretion to apply abatement to a firefighter's pension on returning to work was creating inequality;
- The FPC had previously been considering proposals to reduce the costs of the firefighter pension schemes. Had this work ceased?

In response it was explained that some of the previously considered cost saving measures, for example the proposed changes to the definition of pensionable pay, would be picked up by the impending FPS amendment order. Future changes to the firefighter pension schemes would be dealt with through the consideration of Lord Hutton's reforms to public sector pensions;

- The committee should be able to agree a core set of pension benefits that could constitute a sound pension scheme. Discussion would follow on the other aspects of the pension scheme where members have different opinions;

Recommendation 11

- If scheme pension ages were to be increased with longevity then it could end up in a position where nobody knew when they would be able to retire. This would also have implications when protecting accrued rights;

Recommendation 12 – noted without specific comment;

Recommendation 13

- The recommendations for public sector pension schemes to move towards a common framework for scheme design (*recommendation no. 13*) and for the Government to introduce primary legislation to adopt a new common UK legal framework for public service schemes (*recommendation no. 24*) were directly linked. These recommendations had the potential to reduce the occupational nature of each scheme;

Recommendation 14

- A retirement age of 60 is not suitable for the fire service scheme.
- Firefighters would not be able to maintain operational fitness to age 60 years and there were very limited opportunities available to redeploy firefighters to non-operational positions within FRAs. This could lead to significant increases in ill-health retirements which the service had managed down;

Recommendation 15 – noted without specific comment;

Recommendation 16 – noted without specific comment;

Recommendation 17

- The DCLG chaired FPC could be considered as the Pensions Policy Group for the firefighter pensions schemes. This lends weight to DCLG's view of FPC's role in relation to the English FPS/NFPS. Each FRA should ideally have its own pension committee to provide transparency;
- There should be a good standard of governance which should be transparent;

Recommendation 18

- Not only was it good practice to provide Annual Benefits Statements (ABS), but it was already a legal requirement;

Recommendation 19 – noted without specific comment;

Recommendation 20

- The Office for Budget Responsibility (OBR) was taking a clear interest on the short to medium effects of pension schemes on Government finance. Firefighter pension forecasts provided to DCLG by FRAs were already scrutinised by the OBR;

Recommendation 21 – noted without specific comment;

Recommendation 22

- There was a centralised theme to this, and other, recommendations;

Recommendation 23

- FRAs should be considering methods of increasing administrative efficiencies by outsourcing and/or sharing services;

Recommendation 24 – [see recommendation 13]

Recommendation 25

- This reflected a top down approach as opposed to the traditional means of consulting on reforms;

Recommendation 26 – noted without specific comment;

Recommendation 27 – noted without specific comment;

ACTION: Members were invited to provide DCLG with informal written comments on each of Lord Hutton's recommendations

SCAPE Discount rate

4.3 The Chairman explained that following the conclusion of the public consultation on the SCAPE discount rate which closed on 3rd March 2011, the Government has determined that the appropriate discount rate to be used for calculating unfunded public service pension contribution rates should be 3% above CPI. The Government also determined that the level of the discount rate would be reviewed every five years with the methodology being reviewed every ten years.

4.4 In discussion, the points raised with regards to the SCAPE Discount rate were:-

- The discount rate was used by Actuaries to take a view on the long term assessment of current scheme liabilities. The reduction in the discount rate effectively would mean that the future value of pension scheme liabilities will increase and should, therefore, cost more today in terms of total contributions;
- As a result of the change in the discount rate, employees would not be expected to pay any further increases in contributions during this CSR period over that which have already been announced;

- Had any consideration been given to the impact of the reduction in the discount rate on the numbers of optants-out?

In response, it was explained that whilst the reduction in the discount rate would affect the future costs of the pension schemes it should not have any direct impact on the levels opt-outs;

- The reduction in the level of the discount rate may lead to an increase in the value of commuted lump sums;
- With the current valuation exercise being undertaken by GAD, the publication of Lord Hutton's long term future reforms of public sector pension schemes, the Government's announcement on the SCAPE discount rate, and the decision to apply CPI for future indexation of public sector pensions, there appeared to be a lot of uncertainty on the future of firefighter pensions.

5. Firefighters' Pensions: Employee contributions – FPC(11)6

[Secretary Note: Members were provided with a handout illustrating two example tariffs which both generated yield equating to £33M and £37M]

5.1 Vickie Edwards of DCLG introduced committee paper FPC(11)6 which was produced following a request at the last meeting. She explained that following the Spending Review 2010 the Government expected that both firefighter pension schemes would generate yields of between £33M and £37M by 2014/15. The handout outlined some indicative tariffs which demonstrated how these levels of yields could be generated. The indicative tariffs had been constructed in order to minimise member opt-out rates and were progressive to ensure that members on higher salaries paid proportionally more for their pensions. Consideration had also been given to potential increases in drop out rates as a consequence of the financial pressures currently being placed on members' income. The paper also provided illustrative examples of how increased drop out rates would affect the level of savings generated.

5.2 In discussion, the following informal points were raised

- There was currently 6,000 FPS 1992 members aged 49 years. If these members were to retire at their earliest point then this would incur a substantial increase in pension expenditure and subsequent reduction in pension income;
- If members were to retire prior to accruing maximum benefits then this would also decrease the long-term liability of the FPS 1992. This needed to be taken into account in any proposed tariffs;
- The number of optant-outs would present a real problem for generating the expected yield. Opt-out rates for both schemes could be as high as 10%;

- The expected £37M yield took account of the protection afforded to low earners shared across all the public service pension schemes. If each public pension scheme was required to take on the liability of protecting the low earners in its membership only then the firefighters' pension scheme would have to generate a yield of £33M;
- The Firefighter pension schemes should not be expected to afford protection for low earners in other schemes and should, therefore, be expected to generate £33M;
- The proposed increase in contribution tariffs would only be applicable until the introduction of any new pension scheme. If the Government did decide to protect the link between accrued service and the member's final salary then this would discourage members from opting out during the interim period.
- The suggestion that a significant number of FPS 1992 members are currently on double accrual should help mitigate against the risks of increased scheme opt-out rates;
- There was an additional implication for Government finance. Increases in contribution rates may encourage members to invest the value of their contributions elsewhere. If those investments were to fail then these people may have to rely on State benefits for income in retirement;
- The pension deficit reduction was a matter for the whole public sector and the application of a simple 3% increase to all public sector scheme members was unfair as it took no account of the current contribution levels. Even after recognising the difference between fast and slow accruing pension schemes, it was not right that members currently paying 11% rates should incur the same increases as those public sector members paying 1%-2% rates. Would want to see HM Treasury calculations that would support this..

6. Draft FPS 1992 Amendment Order

- 6.1 Paul Fuller asked whether the impending changes to the scheme could still be influenced. The Chairman explained that the consultation paper was being drafted and, when complete, would be submitted for ministerial approval. The paper would then be issued as part of a 3 month formal consultation. The Government would then consider comments received and would issue a formal response to the consultation. At this stage the amendment legislation would be made and laid in Parliament.
- 6.2 Stephen Hunter of APFO asked whether comments could be submitted to DCLG prior to the formal consultation. The Chairman said that he was content to receive comments on any of the current proposals.
- 6.3 Stephen Hunter made reference to the recent tax issue where new tax rules meant that certain CFOs would incur a tax charge on their commuted lump

sum and pension payments if they retired before age 55. He said that it was unfair as it affected a small number of CFOs solely because of the date of their appointment. The Chairman responded by confirming that the issue had been discussed at the FPC previously and a letter setting out DCLG's final position had been issued by the now former Director of DCLG's Fire and Rescue Services Directorate. He said that this was essentially a tax matter for HM Revenue and Customs and not DCLG.

6.4 James Preston said that any retrospective amendment to the scheme would not have an effect on HMRC's interpretation of "unqualified right" as at the relevant date in April 2006.

6.5 Ivan Walker of Thompsons asked about the current position on the proposal to amend the RPI references in the scheme rules relating to the uprating of the Additional Pension Benefits. The Chairman said that the proposed amendment to the RPI references were included in the draft consultation document.

7 Firefighter Pension Schemes: GAD's Valuation

71 The Chairman advised the committee that GAD's valuation exercise of both firefighter pension schemes had started on the 31st March 2011. The valuation process had a challenging but achievable timetable. In order to meet the completion date of February 2012 employer representatives were asked to ensure that FRAs submitted the requested data on time.

8. Firefighters' Pensions Scheme Data – FPC(11)7

8.1 The Chairman confirmed that DCLG had been collecting certain financial and non-financial data on the firefighter pension schemes since 2006 as part of the Pension Top Up grant process. He said that DCLG had now made arrangements for this data to be validated by colleagues in the Data and Analysis team. The data would then be formally published and would increase data transparency for firefighter pensions. This would meet one of the recommendations made by Lord Hutton in his final report.

8.2 Ivan Walker asked whether DCLG could also collect data on the age and gender profile of the firefighter pension schemes' membership. The Chairman explained that ages of scheme membership would be collected by GAD as part of their valuation exercise.

9. Any Other Business

Commutation Grievance

9.1 Paul Fuller made reference to the ongoing grievance regarding the review of the commutation factors in 2008. He said that the revised factors were initially applied retrospectively to 1st October 2007 and were then further backdated to 22nd August 2006. He said the issue of revising the FPS 1992 commutation factors had initially been raised in 2002 and asked for an update on the

current position of the grievance. The Chairman confirmed that the grievance case was currently being dealt with by the Pensions Ombudsman.

RDS Amendment Order

- 9.2 Ivan Walker asked for an update on the impending NFPS amendment Order to deal with the RDS Employment Tribunal. He said that the first draft of the required amendment order had been expected in February 2011. The Chairman said that particular amendment order was very complex and that DCLG were currently considering each of the necessary amendments to the NFPS.

Review of the current FPS 1992 commutation factors

- 9.3 Sean Starbuck asked for an update on the current review of the FPS 1992 commutation factors. The Chairman confirmed that GAD had recommenced the review following the announcement of the new SCAPE discount rate. DCLG would inform FRAs of any new factors and their date of implementation when confirmation had been received from GAD.

10. Dates of Future Meetings

4 May 2011 (11am) - **cancelled**
9 August 2011 (11am) – **cancelled**
13th September (10am)
3 November 2011 (10am)
18 January 2012 (10am)
5 April 2012 (10am)

- 10.1 It was agreed that the next FPC should take place in June/July and the following FPC should be in September. It was also agreed that FPC meetings, in future, should start at 10am. Dates of future meetings would be circulated in due course.

DCLG
April 2011

Attendees

Andrew Cornelius (Chairman)	DCLG
Terry Crossley	DCLG
Vickie Edwards	DCLG
Anthony Mooney (Secretary)	DCLG
Fred Walker	LGA
Ged Murphy	LGA
James Dalgleish	LGA
Jim Preston	SPPA
Gillian McMaster	DHSSPSNI
Erika Beattie	NIFRS
Terry McGonigle	NIFRS
Janet Thompson	Welsh Assembly
Brian Wallace	CoSLA
Sean Starbuck	FBU
Ivan Walker	Thompsons Solicitors
Ian Hayton	CFOA
Paul Fuller	APFO
Stephen Hunter	APFO
Glyn Morgan	FOA
Craig Thompson	FOA
Tristan Ashby	RFU

Apologies

Eunice Heaney	Pensions Consultant
Des Prichard	APFO
John Barton	RFU
Dr Will Davies	ALAMA