

**FIREFIGHTERS' PENSION COMMITTEE**

**NEW FIREFIGHTERS' PENSION SCHEME**

**DRAFT BLUE PRINT – B4 REGULAR EMPLOYMENT**

Note by ODPM

1. This paper invites the FPC to discuss the definition of 'regular employment' for the purposes of a higher tier ill-health award in B4 of the draft Blueprint.
2. The new Firefighters' Pension Scheme will have two levels of ill health retirement benefits determined by the Fire and Rescue Authority and based on whether the scheme member is able to undertake other regular employment after being found permanently disabled for his/her current role.
3. Where the individual would be able to undertake other regular employment a lower tier ill health award would be based on service accrued in the scheme: the pension would be payable immediately on ill health retirement. Where the individual could not undertake other regular employment, the accrued award would be enhanced.
4. The two tier approach to ill health retirement reflects a recommendation contained of the HM Treasury Review of Ill Health Retirement in the Public Sector. This referred to "paying a reduced pension, or only a medical severance payment, for those who meet the criteria for ill health retirement but who are judged to be capable of employment elsewhere." No general definition was suggested for what "employment elsewhere" should be.

**Options**

5. The Home Office is proposing for the new Police Scheme a two-tier ill-health arrangement dependent on whether the person is permanently disabled from engaging in "any regular full-time employment". For their draft regulations, "regular full-time employment" is to be defined as employment for an annual average of at least 30 hours per week. Home Office is also working on guidance on undertaking capability assessments.
6. We have considered, at page 5 of FPC(05)13, whether there are alternatives to the police proposals - i.e. whether 'regular employment' might be by reference to average conditioned hours worked over previous years. For example, for someone working whole-time over the last 5 years, regular might be defined as  $\frac{3}{4}$  of a 42 hour week e.g. 31.5 hours. For someone working part-time hours of say 20 per week, this would be 15 hours per week.
7. However, we do not think that this is necessary, and it might be discriminatory. A person who chooses to work part-time may do so for reasons of other responsibilities and not because of capability. Therefore we think that whatever

hours the person may be contracted to work by the FRA, the same test should be applied.

8. The only statutory provision we have found which defines 'regular employment' are the Social Security (Industrial Injuries) (Regular Employment) Regulations 1990 where the definition is "...in relation to any person and any week, gainful employment (whether or not under a contract of service) which the person undertakes for 10 hours or more in a week which forms part of a period of 5 or more consecutive weeks in which such employment is undertaken".
9. We do not think that the Social Security (Industrial Injuries) (Regular Employment) Regulations 1990 offers a suitable model since they deal with quite different issues. While the ill health provisions are not intended to offer a guaranteed minimum income (unlike an injury award) a threshold of 10 hours would be too low when considering the person's capability for regular work and the possibility of another source of income.

### **Capability assessment**

10. The question of capability, which will be a matter for determination under the Rule H1 equivalent in the new pension scheme, will be a matter for the IQMP, as at present. We will discuss with ALAMA whether guidance is necessary and, if so, whether it is more properly a matter which should be left to ALAMA to discuss and agree. Any guidance will not form part of the NFPS.

### **Conclusion**

11. The Police proposal would seem to offer a reasonable compromise and we would suggest to the FPC that this is the interpretation that should be adopted.
12. The FPC is invited to discuss.

***ODPM***  
***November 2005***