

## NEXT ROUND OF SCHEME AMENDMENTS

Following the publication of Government's response to the 2011 consultation paper on amendments to both the 1992 and 2006 fire schemes, DCLG is now considering whether a further round of technical scheme amendments is needed to correct any errors and to ensure that all statutory references are up to date and reflect existing legislation.

The starting position for considering any proposals will be whether there are any costs associated with the proposals and whether they exceed those of the existing policy intention. To date, we have identified or fire and rescue authorities have brought to our attention the following amendments for consideration by the Committee:

### Changes to the 1992 Scheme

#### **(i) Rule B5A(2)- Entitlement to two pensions ('Split pensions')**

Issue: Rule B5A entitles a firefighter to two pensions (or a 'split pension') where they become entitled to a different rate of pay on taking up a different firefighting role. The provision also sets out that where the aggregate of the two pensions exceeds the member's pension when calculated as a single award, then the single award pension should be paid if the member elects for the single award to be paid. The construction of this rule appears to be incorrect as the original policy intention was for the greater of the two awards to be paid.

Proposal: we propose to correct this so that when the single award exceeds that of the aggregate of the two pensions, then the member will have the opportunity to elect for the single award to be paid.

#### **(ii) Rule G1(2b) – Earnings' cap on pensionable pay**

Issue: Rule G1(2b) restricts the amount of pensionable pay to be used for any member who started paying employee contributions after 31st May 1989 to an "Earnings' Cap" which is prescribed each year by Treasury under section 590C(6) of the Income and Corporation Taxes Act 1988. However, section 590C(6) was removed with effect from 5th April 2011 which will have consequences for anyone earning over £123,600 as at that date.

Consider: the Committee's views are sought on whether to retain an earnings' cap.

#### **(iii) Rule K1A(5) – Consequence of a review**

Issue: As part of the amendments made in July, new Rule K1A(5) was introduced to clarify that where the early payment of a member's deferred pension was subsequently reviewed and it was found that the member was fit for regular employment, the payment of the deferred pension would cease. However, the conditions for the early payment of a deferred pension (under Rule B5(4)(b)) are that a deferred pension would come into payment early where the member was found to be permanently disabled for performing his former role as a firefighter. There is therefore now a discrepancy between the terms of accessing the pension and for removing the pension on review.

Consider: The Committee's views are sought on whether the criteria for a former firefighter to be entitled to receive early payment of their deferred pension should be based on their ability to undertake the role of a firefighter or on regular employment.

#### **(iv) Schedule 2, Part V1A, para. 2(1) – Calculation of awards for p/t service**

Issue: Schedule 2, Part V1A, para 2(1) sets out a formula for prorating pensions to take account of any service that the member accrued as a part-time regular firefighter. The formula aggregates the pensionable service accrued as a W/T firefighter and P/T and divides it by the member's pensionable service. The formula, as currently constructed, does not prorate the pension as intended but instead provides the member with a pension for their part-time service on a W/T basis. In order to achieve the policy intention, the formula should divide the member's total pensionable service (both W/T and P/T) by their qualifying service i.e. WTE service.

Proposal: to correct the formula so that it correctly prorates the member's pension to take account of any P/T service.

#### **(v) Schedule 8 – Purchase of Increased Benefits**

Issue: The actuarial factors for determining the cost of purchasing additional sixtieths in the 1992 Scheme are currently incorporated with the scheme's legislation and, therefore, do not match the current, actuarial cost of purchasing additional service. The equivalent factors for purchasing additional service in the 2006 Scheme are set out in guidance that is provided by GAD.

Proposal: to remove the purchase of increased benefits factors from within the 1992 Scheme rules and include them in future actuarial factors to be provided by the Scheme Actuary. This will bring it into line with how the equivalent factors are treated in the 2006 Scheme.

#### **(vi) Schedule 9 – Medical Appeals (to the Board of Medical Referees 'BMR')**

Issue: Under the current medical appeal procedures there is no requirement for the appellant to disclose his/her GP records in order to aid the BMR with consideration of the case. We have been advised that it can sometimes be difficult to make a full assessment of an appellant's medical condition where their GP records have been withheld. They have advised that having unrestricted access to an appellant's GP records would benefit the medical appeals process.

Consider: whether to include the pre-condition that the appellant's GP records should be accessible to the BMR for a medical appeal hearing to proceed.

### Changes to both the 1992 and 2006 Schemes –

#### **Scheme Valuations**

Issue: HMT is currently consulting on the '*Valuations and Employer Cost Cap Directions & Employer Costs Cap Regulations*' for public service pensions.

Consider: whether amendments will be necessary to align the scheme with HMT directions.

## **Board of Medical Referees - Appeal Hearings**

Issue: At present both schemes' rules are silent on whether an IQMP, representing the FRA, has the right to attend the BMR's medical examination of an appellant. The Police Pension Scheme currently allows the medical practitioner appointed by the Police Authority to attend medical examinations of the appellant.

Consider: whether an IQMP should have the right to attend a medical examination being undertaken by the BMR on an appellant.

We would welcome views on the above proposals and whether there are any further suggested amendments that should be made to the 1992 and 2006 Schemes to improve the administration of the schemes.

***Department for Communities and Local Government  
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