

FIREFIGHTERS' PENSION COMMITTEE

NOTE OF THE 39th MEETING OF THE FIREFIGHTERS' PENSION COMMITTEE HELD ON 12th JANUARY 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. He advised the committee that this would be the final committee meeting for himself and Andy Boorman as they were both retiring at the end of January.

2. Notes of the 38th meeting

- 2.1 Des Prichard referred to paragraph 4.2 of the note of the 38th meeting and asked for DCLG to clarify whether the "carry forward" period was effectively a 4 year period. Andy Boorman explained that the value of each member's pension would be tested at the end of each year and if the increase in value from the previous year exceeded the Annual Allowance (AA) then it would be possible for the member to carry forward any unused AA from the 3 years prior to the year being tested. It was agreed to add "**(i.e. 4 years)**" at the end of paragraph 4.2.
- 2.2 Terry Crossley referred to paragraph 7.5 of the note and asked if the proposal to introduce Discretionary Compensation Regulations for members of the FPS and NFPS had been raised within the National Joint Committee (NJC). Fred Walker confirmed that the proposal was currently being considered by the employers' side of the NJC and would be formally discussed with the employees' side in due course.
- 2.3 Terry Crossley said that there was an expectation that after the NJC had concluded their discussions the proposal would be raised with DCLG. At this stage the proposal would be discussed within the FPC and could then be put to Ministers.
- 2.4 Subject to the amendment above, the note of the 38th meeting was agreed.

3. Matters arising from the 38th FPC meeting – FPC(11)1

- 3.1 The Chairman introduced paper FPC(11)1 which updated members on the items discussed at the 38th meeting held on 17th November 2010.

Restricting Pensions Tax Relief

- 3.2 The Chairman confirmed that DCLG had held further discussions with HM Treasury with regards to the implications of the new restrictions on pensions tax relief for members of the FPS and NFPS. During the discussions DCLG had highlighted the issue of fast accrual schemes and the compound effect these could have on a scheme member's pension growth. HM Treasury were fully aware of the issue for fast accrual schemes and the effects on members' pension growth but were not willing to make any further concessions.

Firefighters' Pension Arrangements: Pension Contributions

- 3.3 Please refer to section 4 below.

4. Firefighters' Pensions: Pension Contributions – FPC(11)2

- 4.1 The Chairman introduced committee paper FPC(11)2. He explained that the paper set out the information received from Chief Secretary of HM Treasury with regards to the £33M - £37M yield that the firefighter pension schemes in England were expected to generate. The devolved administrations will each receive their own yield requirements. Previously DCLG had hoped to protect members of the NFPS, who were already paying proportionately more than members of the FPS, but that this was not possible. DCLG had given further consideration as to what adjustments could be made to the breakdown previously outlined in committee paper FPC(10)15. At this stage paper FPC(11)2 provided provisional illustrative figures.
- 4.2 The Chairman also confirmed that DCLG was currently undertaking a data collection exercise to get up to date data on the estimated number of firefighters (employed in each role) for the next 4 years. When completed, the data would provide the most accurate picture of the expected changes in the profile of the firefighter workforce within the Fire Service. The data would help DCLG to determine what the possible changes in the contributions rates might yield.
- 4.3 Ian Hayton of CFOA asked whether the correspondence from the Chief Secretary of HM Treasury was available for members to see. The Chairman said that there was an initial Ministerial letter that made no reference to any particular scheme. This letter was followed up with an email that simply set out HM Treasury's expectation that the firefighter pension schemes would generate a yield in the range of £33M to £37M. Terry Crossley explained that the expected yield for the unfunded public sector pension schemes was derived from a simple arithmetic calculation in that they all had to generate a yield equivalent to 3.2% of pensionable payroll. He said that for the firefighter pension schemes this equated to £33M to £37M.
- 4.4 Ged Murphy of LGA highlighted the fact that FRAs had not been given information about how much they would receive in the 3rd and 4th years of the current Local Government Settlement and, therefore, any data estimates

submitted would be liable to volatility. Terry Crossley explained that the proposed increase in contributions took account of this in that the increases would generate 80% of the required yield by the end of the first two years with only 20% of the yield generated in the third year.

- 4.5 The Chairman said that DCLG would consider the final data on the future profile of the firefighter workforce and would prepare a tariff to show how the yield could be delivered. This would be shared with the Committee. Proposals would need to be submitted to HM Treasury to inform this year's budget. Any proposed amendments to the employee contribution rates would be consulted on well in advance of April 2012 implementation date.
- 4.6 Fred Walker referred to the decision not to afford any protection for the NFPS contribution rates in the first two years. He noted that Lord Hutton's interim report had specifically commented that the savings generated from the transition from the FPS to the NFPS were higher than similar changes in other public sector pension schemes. This was also recognised by the LGA. He emphasised the need for firefighters to have a choice to trade down their FPS membership to a NFPS membership. Protecting the attractiveness of this option, even if temporarily for the first two years, would benefit both local and national government and would be LGA's preferred option. It would also mitigate the risks of firefighters opting out of scheme membership altogether which would ultimately mean that state benefits would pick up the cost of absence of adequate pension provision.
- 4.7 In response, Terry Crossley reiterated that this was a financial exercise by HM Treasury in order to generate yields from both the funded and unfunded public sector pension schemes. It was not related to any future public sector pension scheme reforms.
- 4.8 Ivan Walker made reference to a recent GMB survey on LGPS membership. It found that if the LGPS employee contributions rates increased by 3% over three years then approximately 30%-35% of the scheme's members would opt-out of membership.
- 4.9 James Pepler said that for every 1% of members to opt out of the FPS would result in a reduction of approx. £1M income generated from employee contributions. The lost income rose to approx. £3.5M when lost employer contributions were included.
- 4.10 It was agreed that the table would be amended to reflect the changes in the yields generated after taking account of potential opt-out rates and to include an additional column on the table to show the effects of protecting the NFPS, as preferred by the LGA.

ACTION: DCLG to amend table to reflect the changes in the yields generated after taking account of potential opt-out rates and to include an additional column on the table to show the effects of protecting the NFPS

- 4.11 Ivan Walker asked whether the same tiered contributions rates for the firefighter pension schemes would be introduced for the Police Pension Scheme. The Chairman said that he wasn't sure but would assume that similar arrangements would be implemented by the Home Office.
- 4.12 Ivan Walker also made reference to the '*auto enrolment*' provision introduced by the Pensions Act 2008. He said that under this legislation the Secretary of State had the right to prescribe a maximum pension contribution rate and asked whether there was any indication as to what the maximum rate would be. Terry Crossley said that that DCLG would investigate and inform the Committee.

ACTION: DCLG to investigate and check whether the Secretary of State had prescribed a maximum employee pension contribution rate

- 4.13 Des Prichard explained that whilst APFO noted the paper they could not support the proposed increases in employee contribution rates. APFO appreciated that DCLG was in a difficult position but viewed the current proposals as a 'broad brush' solution. The 11% employee contribution rate for the 30 year FPS was equivalent to an 8.33% contribution rates for the 40 year NFPS. He would be happy to advise his members that the increased contributions would ensure the survival of the FPS as a final salary pension scheme but this was not possible. APFO would write to DCLG setting out their opposition to the proposals and asking for there to be equilibrium in the contribution rates amongst the public sector pension schemes.
- 4.14 Terry Crossley responded that Lord Hutton had recommended in his interim report that public sector employees should pay more for their pensions and that it was the Chancellor of the Exchequer who had decided that contribution rates should increase by an equivalent of 3%.
- 4.15 Ged Murphy asked what the next steps were to get to the point where the information was ready to be submitted to HM Treasury. Terry Crossley explained that updated table would be used to construct an appropriate tariff. This will then be issued to the FPC for comments which would then be fed back to Ministers.
- 4.16 Ged Murphy also asked whether there was any scope to negotiate on the contribution increases. The Chairman explained that whilst there was a requirement to generate the yield of £33M to £37M by 2014/15, there was scope to protect the NFPS. This would be at the expense of the FPS which would have to generate a higher proportion of the required total yield.
- 4.17 The Chairman concluded discussions by confirming both DCLG Ministers and HM Treasury would be advised of the implications of increasing the contributions for both schemes and that a new tiered tariff table would be constructed and circulated to members for comment. The new tiered tariff table would also include a sensitivity analysis on the financial effects of potential membership drop out rates.

5. Draft FPS 1992 Amendment Order – FPC(11)3

- 5.1 The Chairman introduced committee paper FPC(11)3 which set out the amendments which had been discussed previously over the past 2 years. There were still some nuance modifications to make to the draft order which were currently being discussed with lawyers and the proposals within the order will be subject to ministerial approval.
- 5.2 Fred Walker asked whether the draft amendments provided for London weighting this allowance to remain pensionable. The Chairman confirmed that, as previously agreed. London weighting payments would be pensionable and they formed part of a London firefighter's basic pay.
- 5.3 Ivan Walker questioned the need to amend the definition of pensionable pay at this time when it was very likely that all public sector pension schemes would be moving to some form of career average (CA) arrangement as part of Lord Hutton's long term reforms. The Chairman emphasised that there was still a need for both firefighter pension schemes to prescribe a clear and definitive definition of pensionable pay as this would ultimately determine the level of contributions that would go into each member's CA pension pot.
- 5.4 Sean Starbuck made reference to Flexible Duty Allowance (FDA). He said that it had previously been agreed that FDA would continue to be pensionable. He referred to the final bullet point on page 4 of the committee paper and said that the FBU contested that this represented the general view of the FPC. The Chairman referred back to previous discussion and confirmed that FDA would continue to be pensionable for existing recipients under final salary pension arrangements. Once the amendment order came into force, FDA could, at the discretion of the FRA, be pensionable for new recipients under Additional Pension Benefit (APB) arrangements.
- 5.5 Ivan Walker said that under the terms of the Grey Book FDA payments should be pensionable. The Chairman responded by explaining that it was the pension scheme regulations that determined what elements of pay were pensionable and the basis upon which they would be pensionable, not the Grey Book.
- 5.6 Fred Walker said that when firefighters progress to the role of Principal Officer they benefit from a significant rise in pensionable pay and, therefore, a substantial enhancement to their pensions. He said that any CPD APBs accrued by these firefighters in the early stages of their career would be paid on top of their already enhanced pensions. Whilst these CPD APBs represented relatively small amounts of money compared to the member's primary pension, there was a case for any CPD APBs accrued by Principal Officers to be forfeited.
- 5.7 The Chairman said that there was a difficulty in seeking to limit a pension in this way as any APB was an accrued right and protected. Given that APB's were designed to protect pension benefits accrued by members on elements

of earnings which could vary and to protect the schemes from the cost of past service costs when members received an increase on these variable earnings in the last three years' of service, he did not think that there was a great deal to be gained from trying to deal with the matter.

- 5.8 Des Prichard made reference to the first paragraph on page 6 of the committee paper. He asked DCLG to clarify the 'contributions holiday' for Chief Fire Officers. The Chairman explained that CFOs employed in that role before April 2006 were unable to retire before age 55 years without incurring a tax charge and, therefore, it had been decided to provide these employees with a 'contribution holiday' arrangement similar to that provided for all members once they had completed 30 years' service before age 50. The draft amendment would entitle an eligible CFO to cease paying pension contributions from the date that they accrued 30 years until they attained 55 years of age. The CFO would recommence paying contributions from age 55 years. If an affected CFO decided to retire at age 55 years before recommencing the payment of pension contributions then the pension would be based on the pensionable pay he/she received at the point the contributions holiday started. If the CFO continued in work but decided not to recommence paying contributions then he/she would need to elect not to pay pension contributions under Rule G3, in which case they would become entitled to a deferred pension payable from age 60 years. If the member was to die during any contributions holiday then any survivor's pension would be based on the pensionable pay that the member was receiving at the date of their death.
- 5.9 Sean Starbuck asked the Chairman to clarify the amendment to the commutation provision on page 7 of the committee paper. The Chairman explained that this had been discussed by the Committee at its 35th Meeting on 28th July 2010 and agreed: under the current FPS regulations firefighters with under 30 years service can only commute a maximum lump sum of 2.25 times their pension. This restriction was seen as acting as an obstacle to some firefighters who would otherwise choose to retire. The proposed amendment would enable FRAs to exercise discretion to offer eligible firefighters the option to commute the full quarter of their pension – the FRA would be liable for the additional cost.
- 5.10 The Chairman concluded discussions by saying that all comments would be noted and that Members would have an opportunity to comment when the draft amendment order was issued for further consultation.

6. Indexation of benefits paid under FPS/NFPS – FPC(11)4

- 6.1 The Chairman advised that the FBU had submitted committee paper FPC(11)4 for discussion. He invited Ivan Walker to introduce.
- 6.2 Ivan Walker explained that in the Budget 2010 announcement the Government indicated that the Consumer Price Index would be used for the future price indexation of public sector pension benefits from April 2011. The

intention behind this decision was to change the indexation of public service pensions where the current indexation was via a link to the indexation of the State Second Pension. He referred to pension circular FPSC 8/2010 which set out required sequential amendment to two references to RPI within the provisions for CPD APBs and LSI APBs, namely Rule B5B(3) and B5C(3). He said that at the time of introducing both the CPD and LSI APBs the FBU argued that the indexation of these benefits should be linked directly to national average earnings during the period before retirement but that RPI indexation was subsequently agreed. He emphasised that these references to RPI were unrelated to increases in the State Second Pension and, therefore, there was no justification for amending them as a consequence of the switch to CPI indexation. He noted that the Scottish Government was consulting on the corresponding amendments to the Scottish FPS but that there was no similar consultation for the FPS in England.

- 6.3 Jenny Coltman explained that the SPPA were holding a technical consultation due to the timing of the pending Scottish Parliament elections, otherwise they would have done the same as DCLG.
- 6.4 The Chairman said that HM Treasury had instructed all of the public pension scheme managers that indexation references to RPI needed to be changed to CPI. He confirmed that there would be a formal consultation on all the proposed amendments to the FPS.

7. Future arrangements for management of Committee

- 7.1 Terry Crossley said that on behalf of the FPC he wanted to formally thank both Martin Hill and Andy Boorman for their excellent stewardship of both the firefighter pension schemes. He confirmed that Andrew Cornelius would be taking over from Martin Hill as the leader of the Firefighters' Pension team. On the future arrangements for management of the Committee, he explained that all business discussed at the FPC could only relate to the firefighter pension schemes in England. As a consequence in the post Hutton era, there would be a need for DCLG to consider the formal structure for consultation in England, and therefore, for membership of the Committee as it was essential that the correct stakeholders were in attendance. It was possible that politicians in Northern Ireland, Scotland or Wales could decide to implement arrangements for the long term reform to their public service schemes that differed from those implemented in England.
- 7.2 Erika Beattie of the NIFRS said that she found the support from DCLG and the information gained from her attendance at FPC meetings as invaluable. She hoped that a link could be maintained. SPPA also felt that CLG's support was invaluable.
- 7.3 Ivan Walker suggested that the proposals to introduce tiered contribution rates could be an immediate issue if there was disparity between the devolved administrations and England.

ACTION: Members invited to submit further comments on the future arrangements of the FPC

8. Any Other Business

IQMP Guidance

- 8.1 Reference was made to Dr Ian Griffith's email to members advising ALAMA members to disregard DCLG's amendments to the IQMP guidance. The Chairman explained that following an application for Judicial Review in a medical appeal case DCLG had been advised by Counsel that the guidance required revision and suggested adaption of paragraphs from Home Office IQMP guidance for the Police Pension Scheme. The revised DCLG guidance reflected this. Ultimately, it was for each IQMP to decide whether or not to follow the guidance.
- 8.2 Ivan Walker confirmed that he had no problem in understanding the amended IQMP guidance.

Retained Employment Tribunal

- 8.3 The Chairman confirmed that DCLG lawyers were currently drafting the relevant NFPS amendment order. A final draft of the amendment order was expected to be completed by end of January/start of February at which stage it would be discussed with the FBU before being issued for consultation. After this, FRAs would have to undertake an options exercise to give eligible retained firefighters an opportunity to join the NFPS as special members.

Review of Commutation factors

- 8.4 Des Prichard asked about the present status of the review of FPS 1992 commutation factors. The Chairman explained that the review had been suspended following the Government's decision to change the indexation of public sector pension benefits from RPI to CPI and to consult on public sector schemes' discount rates. GAD will revisit the review of the commutation factors following the outcome of the SCAPE consultation.

9. Dates of Future Meetings

13 April 2011 **(11am)**
4 May 2011 **(11am)**
9 August 2011 **(11am)**
3 November 2011 **(11am)**
18 January 2012 **(11am)**

DCLG
January 2011

Attendees

Martin Hill (Chairman)	DCLG
Terry Crossley	DCLG
Andrew Cornelius	DCLG
Andy Boorman	DCLG
Anthony Mooney (Secretary)	DCLG
James Pepler	GAD
Orla McNally	GAD
Fred Walker	LGA
Ged Murphy	LGA
Jenny Coltman	SPPA
Erika Beattie	NIFRS
Sean Starbuck	FBU
Ivan Walker	Thompsons Solicitors
Ian Hayton	CFOA
Des Prichard	APFO
Glyn Morgan	FOA
John Barton	RFU
Tristan Ashby	RFU

Apologies

Eunice Heaney	Pensions Consultant
James Dalglish	LGA
Brian Wallace	CoSLA
Christine Maguire	DHSSPSNI
Dr Will Davies	ALAMA