

## **FIREFIGHTERS' PENSION COMMITTEE**

### **NOTE OF THE 43rd MEETING OF THE FIREFIGHTERS' PENSION COMMITTEE HELD ON 18<sup>th</sup> JANUARY 2012 AT ELAND HOUSE, BRESSENDEN PLACE, LONDON**

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

#### **1. Introduction**

- 1.1 The Chair welcomed everyone to the meeting. As there were a number of new members to join the FPC he invited to attendees to introduce themselves and to declare their representative organisations.

#### **2. Note of the 42<sup>nd</sup> meeting**

- 2.1 Ivan Walker made reference to paragraph 6.5 of the draft note. He asked for the second sentence to be amended to reflect the following:

*“He said that the outcome of the funding valuation will determine whether there is an actuarially assessed deficit in the schemes, and will also determine the level of the possible employer cap. That may mean that member contribution rates are subject to further revision as soon as the funding valuation has been completed.”*

- 2.2 The note of the 42<sup>nd</sup> meeting was agreed, subject to the above change.

#### **3. Matters arising from the 42<sup>nd</sup> FPC meeting – FPC(12)1**

- 3.1 The Chair introduced paper FPC(12)1 which updated members on the items discussed at the 42<sup>nd</sup> meeting held on 26<sup>th</sup> October 2011.

##### *Firefighters' Pensions: Pension Contributions (paragraph 5.4)*

- 3.2 The Chair explained that following on from the last meeting, APFO had provided salary levels for members employed in the roles of Principal Fire Officer that they wished to have modelled. He said that DCLG had used the information to construct a table showing the indicative impact of the contribution increases on Principal Fire Officer take home pay - the table had been annexed to paper FPC(12)1. He emphasised the point that the impact was indicative and would ultimately depend on each person's personal circumstances.

##### *Hutton Reforms (section 6)*

Please refer to section 5 of this note.

*Any other business – Fraudulent Transfers (paragraph 7.1)*

The Chair explained that following discussion at the last meeting, DCLG had published a short note on the firefighters' pension scheme discussion forum to remind FRAs of the existence of rogue companies which had been set up to receive fraudulent CETV payments.

**4. Update on outcome of statutory consultation on employee contribution rate increases**

4.1 The Chair confirmed that the statutory consultation on the proposed increase in contribution rates closed on 2<sup>nd</sup> December 2011. There were 61 responses altogether comprising 36 from individuals, 18 from employing FRAs, and 7 from representative bodies.

4.2 The main issues consistently raised by respondents were:

- whether proposals for Year one contributions could / should be considered in isolation from picture for 3 years or from broader reforms;
- how the level of existing contribution rates in fire schemes compared with other public service schemes;
- whether the increases were necessary, particularly in the context of the longer term reforms;
- the context for proposals (i.e. pay restraint and cost of living);
- the potential for an increase in the number of members opting to leave the Scheme beyond the level assumed; and the impact that will have on scheme viability;
- the impact of tiering, particularly whether higher contributions for managers will effect willingness to seek promotion or remain in the service;
- the relationship between the proposed tiers and the current grading or pay structures, particularly in London;
- the administrative impact of imposing new tiers, particularly if not related direct to pay grade or existing tax bands;
- how relevant the low pay thresholds were for FRS and whether this was a meaningful concession;
- the impact on older staff (who were more likely to be employed in the more senior roles);
- the treatment of part-timers and retained; some questioned the fairness of using whole time calculation.

4.3 DCLG expected to publish a formal response to the consultation in February. The consultation responses would form part of a submission to inform Ministers in making a final decision. The amendment legislation was expected to be laid before Parliament in early March and take effect from April 2012.

- 4.4 Glyn Morgan emphasised the need to advise FRAs at the earliest opportunity to provide them with sufficient time to implement the required changes to their administrative practices.
- 4.5 Jenny Coltman confirmed that Scotland had published its consultation paper on the proposed increases in contributions rates with a closing date of 2<sup>nd</sup> February 2012. She said that no responses had been received to date.
- 4.6 Christine Maguire confirmed that Northern Ireland had also published its consultation on the contribution increases which was due to close on 20<sup>th</sup> January 2012. One response had been received from the FBU which corresponded to their response for the English consultation.
- 4.7 Kingsley Rees confirmed that the consultation in Wales closed on 21<sup>st</sup> December 2011 and 4 responses had been received. Officials were currently in the process of advising Ministers.

## **5. Hutton Reforms – oral update on post 2015 reforms process**

5.1 The Chair explained that Bob Neill, the DCLG Minister responsible for Fire and Resilience matters, wrote to employee representatives on 8<sup>th</sup> December 2011 and outlined the Government's preferred post 2015 scheme design for the firefighter pensions as follows:

- total costs of 27% of pensionable pay with an employer contribution rate of 13.8% and an employee contribution rate of 13.2%;
- Career Average Revalued Earnings (CARE) pension scheme;
- accrual rate of 1/57ths;
- Normal Pension Age of 60, subject to regular review (and a deferred pension age of State Pension Age);
- earnings revaluation of past CARE service for active members;
- pensions in payment and in deferment indexed by CPI;
- average member contributions should be assumed to be 3.2pp above their projected 2015/16 weighted average level;
- no fixed lump sums, optional commutation, with a 12:1 factor for converting pension to lump sum;
- ancillary benefits (ill-health, death and survivors benefits) that match provision in schemes that are currently open to new members;
- members rejoining after a period of deferment of less than 5 years can link new service with previous service, as if they had always been an active member (so previous accruals are indexed by earnings for that period of deferment); and
- members transferring between public service schemes would be treated as having continuous active service (which would include those

transferring between schemes who had rejoined public service after a gap of less than 5 years);

- there would also be a protection given to all active scheme members who, as of 1 April 2012, were within 10 years of their current NPA (age 55 in the FPS and age 60 in the NFPS) so that they would not see any change to the date when they could retire nor suffer any reduction in the amount of pension that they would be entitled to receive at their current NPA;
- there would be a further 3-4 years tapered protection.

5.2 The Chair also explained that the protection given to accrued rights would provide an FPS 1992 member:

- who joins the post 2015 scheme to be able to count the post 2015 service towards the 25 years pensionable service qualifying criteria for those currently entitled to retire from age 50 years;
- who continued in the post 2015 pension scheme until they accrued a total of 30 years pensionable service, the residual FPS 1992 pension will be calculated on 45<sup>ths</sup>. If he/she retires prior to accruing 30 years pensionable service there will be some recognition of the members' expectation to double accrual for service accrued under the FPS 1992, so that a members' full pensionable service upon retirement will be used to calculate an averaged accrual rate to be applied to service accrued under the 1992 scheme;
- with an actuarial assessed commutation lump sum from their residual FPS pension. For any part of their pension that relates to post 2015 they would receive a commutation lump sum based on £12 for every £1 of annual pension commuted;
- with a link to final salary for any residual FPS 1992 pensionable service.

5.3 The Chair concluded by saying that DCLG were currently in discussions with both employer and employee representatives to agree the detail of a 'Heads of Agreement' document.

## **6. Flexible Duty Supplement (FOA paper)**

6.1 Glyn Morgan introduced the FOA paper on Flexible Duty Allowance (FDA) and said that it had been prepared as a follow up to their response to the consultation paper on the wider amendments to the FPS and NFPS. The paper attempted to provide a historical background to the introduction of FDA and its treatment as pensionable pay. He said that in the light of the information contained in the paper the FOA would like to formally request that FDA remain pensionable under the current arrangements.

- 6.2 Des Prichard said that employers had always considered the Flexible Duty Supplement as part of a members pay and did not consider it to be an allowance.
- 6.3 Ivan Walker made reference to the High Court judgment in the Norman v Cheshire case which related to the pensionable pay of a firefighter employed on the Daycrewing System. He explained that whilst the case did not relate to FDS, it was significant in that the judgment found that the temporary nature of pay was not relevant when determining pensionability, but rather that the payment was made regularly. He continued by explaining that FDS was pensionable at present not because it was considered permanent, but because it was paid to members regularly. He cautioned against precluding payments from being pensionable because of their temporary nature. In response, the Chair said that it was DCLG's view that the judgment relied very much on permanency. He said that the outcome of the consultation would need to consider the Judgement.
- 6.4 Des Prichard highlighted that FRAs currently make regular payments to firefighters which may only be for a limited period and as such may not be considered to be pensionable. He emphasised the need to clarify what was meant by regular. The Chair responded by saying that the judgment suggested that the key criteria for determining pensionability was that the payments needed to be permanent and not episodic in nature. The judgment also stated that the definition of pensionable pay needed to be interpreted in the light of statute and not in the context of employment contracts. He recommended that FRAs should take legal advice on the implications of the Judgment for their own local agreements.
- 6.5 Des Prichard asked whether there was any likelihood that FRAs would be affected by additional pension liabilities that they may be unaware of as a consequence of the High Court judgment. Ivan Walker responded by saying that it was entirely possible that some FRAs have been making regular payments to firefighters and have not been treating them as pensionable.

## **7. Any Other Business**

- 7.1 Glyn Morgan asked for an update on the Scheme Sanction Charge issue that had been discussed at earlier meetings. In response, Ged Murphy explained that he had previously planned to submit a discussion paper to the Committee but had to delay this as he was still considering the issue. He made reference to the Police Pension Scheme and said that some administering authorities had interpreted the HMRC regulations differently from others and, therefore, there was some uncertainty with regards to the correct application. He said that he would continue to seek a definitive interpretation of the HMRC legislation and would keep the Committee updated.
- 7.2 Ged Murphy asked whether there had been any progress on Scheme Pays. The Chair confirmed that DCLG were currently awaiting the associated actuarial factors and guidance from GAD. Once received, DCLG would disseminate to FRAs.

**8. Dates of future meetings**

**28 March 2012 (10am)\***

4 July 2012 (10am)

3 October 2012 (10am)

17 January 2013 (10am)

24 April 2012 (10am)

*\* please note that the FPC meeting planned for the 5 April has been rescheduled to 28 March*

**DCLG**

**February 2011**

**Attendees**

Andrew Cornelius (Chairman)	DCLG
Terry Crossley	DCLG
Anthony Mooney (Secretary)	DCLG
Gill Gittins	LGA
Ged Murphy	LGA
James Dalgleish	LGA
James Pepler	GAD
Alyson Hall	GMFRS
Andrew Bayne	Kent FRS
Jenny Coltman	SPPA
John Craig	Scottish Government
Christine McGuire	DHSSPSNI
Kingsley Rees	Welsh Assembly
Alan McLean	FBU
Sean Starbuck	FBU
Ivan Walker	Thompsons Solicitors
Ian Hayton	CFOA
Des Prichard	APFO
Glyn Morgan	FOA
John Barton	RFU

**Apologies**

Maurice Heaster	LGA
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