

FIREFIGHTERS' PENSION COMMITTEE

NOTE OF THE 45th MEETING OF THE FIREFIGHTERS' PENSION COMMITTEE HELD ON 4th JULY 2012 AT ELAND HOUSE, BRESSENDEN PLACE, LONDON

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

1. Introduction

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

2. Note of the 44th meeting

2.1 Alyson Hall made reference to the Scheme Sanction Charge at paragraph 2.1 of the note. She said that GMFRS were currently considering whether they needed to seek further advice on the interpretation of the HMRC legislation and would keep the Committee updated.

2.2 The note of the 44th meeting was agreed.

3. Review of Normal Pension Age (NPA): Chair introduction - FPC(12)4

3.1 The Chair introduced paper FPC(12)4. He introduced Dr Tony Williams who the Fire Minister had chosen to Chair the Review of the NPA, as set out in parts (h) and (i) of the Heads of Agreement.

3.2 Dr Tony Williams was invited to update the Committee on how he proposed to proceed with the review and how evidence could be submitted by interested parties for consideration.

[Secretary's Note: A copy of Dr Tony Williams' PowerPoint presentation has been attached to the note of the meeting]

3.3 Alyson Hall asked whether there would be any subsequent reviews carried out after the conclusion of Dr Williams' review. The Chair responded by explaining that the Heads of Agreement for firefighter pensions included a commitment for the NPA to be subject to regular review. In addition to this, there would also be Central Government reviews of NPA for the public sector pension schemes.

3.4 Ian Hayton of CFOA highlighted that there was other specific research on firefighter fitness currently being undertaken. He asked whether the findings from this research would be considered as part of Dr Williams' review. Dr Williams explained that he would want to incorporate these findings as far as possible, but that there could be issues with regards to the date his review concludes and that of the other research.

- 3.5 Sean Starbuck of the FBU enquired as to how far back the review would consider historic data. He also said that the review would need to take account of the post 2006 period and, in particular, the incidences where firefighters have been declared unfit for undertaking the operational aspects of their role but have been successfully redeployed to non-operational posts. In response, Dr Williams explained that he would consider data as far back as was appropriate but needed to be mindful of the significant changes to the role of a firefighter over the past few decades.
- 3.6 Sean Starbuck made reference to Dr Williams' proposal to consider experiences in other European firefighter workforces. He said that the review needed to recognise the differences between the firefighter standards and roles in the United Kingdom with that of other European countries; this also included differences in the occupational nature of certain roles; for example, some European firefighters are not required to undertake compartment firefighting after attaining age 40 years.
- 3.7 Dr Will Davies of ALAMA commented that the Review should help to inform speculation and projections on the proportion of firefighters that would be likely to continue employment to age 60 years if current trends continue, and the proportion of firefighters that could continue to age 60 years if the potential for improvements in the health and physical fitness of firefighters can be achieved. The setting of the NPA would require decisions on a number of socio-economic issues which will include 'what are *reasonable* expectations' and 'what are *realistic* expectations', and 'where the balance of savings and costs to the scheme would lie if the NPA remains at 55 years and if it is raised to 60 years. Dr Davies asked whether the Review would be taking these decisions or whether the decisions would be made by a separate body. In response, the Chair explained that decisions on whether an individual was able to continue to the scheme's NPA or whether they qualified for an ill-health retirement were essentially employment matters. The Fire Minister was very interested in setting up this formal review so as to inform his final decisions on scheme design.
- 3.8 Sean Starbuck emphasized that in order for the 2015 Scheme to maintain the occupational nature of firefighting, it needed to ensure a large proportion of the firefighters who join the scheme were able to continue their employment to the NPA.
- 3.9 Ian Hayton of CFOA said that whilst he understood how a firefighter's fitness at the point of entry into the Fire Service could be factored into the review, he was not sure how account would be taken for those firefighters in the middle of their careers and who were just about satisfying the minimum fitness requirements of the job. Dr Williams explained that there would be a need to consider the number of firefighters in this particular group and the proportion they represented of the workforce as a whole.
- 3.10 The Chair explained that it would also be necessary to appoint an employee and employer representative as formal participants of the review. He said that he assumed that the LGA would nominate an employer representative.

The Trade Unions should discuss amongst themselves and decide who should be appointed the employee representative.

ACTION: The LGA and Trade Unions to confirm the names of the employer and employee representatives to be appointed as formal review participants

3.11 Ian Hayton said that CFOA would be happy to support the review in obtaining input from the Fire Service.

4. Review of Opt-outs: April and May data - FPC(12)5

4.1 The Chair introduced committee paper FPC(12)5 which reported on the findings from April data submitted by English FRAs. He asked Sharon Mayers to provide an update on May's returns.

4.2 Sharon Mayers explained that the Department was still in the process of receiving May's returns. To date, DCLG had received 34 responses in respect of May with 20 FRAs reporting no opt-outs. 14 FRAs had reported that a total of 34 firefighters had either opted out or decided not to join the pension scheme. The 34 firefighters comprised of 22 whole-time regular and 12 retained firefighters. Of the 22 whole-time firefighters who chose to opt-out of their scheme membership, 7 were existing 1992 Scheme members, 13 were existing 2006 Scheme members, and 2 firefighters who had chosen not to join the 2006 Scheme on recruitment. 8 of the 12 retained firefighters had chosen not to join the scheme. She continued by saying that the characteristics of the May returns to date were similar to that of April's returns, with half of the whole-time regular firefighters who chose to opt-out earning less than £30K per annum; and the other half earning between £30-40K per annum. It was also interesting to note that three quarters of those who chose to opt-out were under age 40 years. FRAs were also finding it difficult to identify the specific reasons why members had chosen to opt out of scheme membership.

4.3 The Chair asked for an update from the devolved administrations. Jenny Coltman of the SPPA informed the Committee that in Scotland there were 4 opt-outs in May with no reasons given. Gillian McMaster of DHSSPSNI confirmed that Northern Ireland had 3 opt-outs in May comprising of 1 FPS member and 2 NFPS member. Kingsley Rees confirmed that Wales had received 1 of the 3 returns for May.

4.4 Sean Starbuck asked whether any comparisons had been made with opt-out data from previous years. The Chair said that whilst some FRAs had submitted certain historic data on opt-out rates, there were variances in the quality and usefulness of this data for this particular exercise. He said that historic data would be considered as part of the overall review process, where possible.

4.5 Sean Starbuck said that whilst the statistics were concerning, account needed to be taken of the fact that the FBU has, and continues to, actively advise its members against opting out of the schemes' membership at this early stage. As such, it might be too early to realise the true impact of the

contribution increases on opt-out rates. He also said that it was important for FRAs to actively encourage members to declare their reasons for opting out.

- 4.6 John Barton of the RFU made reference to the annual statistical releases on firefighter pensions' data that were published on the DCLG website. He asked whether the information on deferred members would be considered as part of the review. The Chair responded by explaining that whilst data had historically been collected as part of managing the Top Up grant, in the non-financial data, FRAs may not have distinguished between members who opted out of the scheme membership whilst continuing as an active firefighter, and those who opted out as a consequence of terminating their employment. It, therefore, should be treated with some caution.
- 4.7 Glyn Morgan of the FOA said that as the April 2012 employee contribution increases were relatively small, the application of a larger increase in April 2013 might have a more significant impact on opt-out rates.
- 4.8 James Dalglish of the LGA said that the findings from May's and June's returns would be more interesting. However, it is important to ensure that any increases in opt-out rates were as a consequence of the April 2012 contribution increases.
- 4.9 The Chair confirmed that DCLG had also recently requested quotes from a number of interested companies to undertake a series of focus groups to help identify the views and concerns of employees which may affect their participation in any scheme after 2015, in accordance with the TOR of the Review [please refer to FPC(12)2]. He said that the Department was expected to inform the successful company on 13th July and expected them to complete their report by 31st August. He said that the report would be circulated to Committee members and that the successful company would be asked to present their findings at the next meeting in October.
- 4.10 The Chair also confirmed that he would cascade to members the list of questions intended to be asked at the focus groups.

ACTION: DCLG to cascade to members the list of questions intended to be asked at the focus groups

- 4.11 The Chair concluded by explaining that both the data on opt-outs along with the findings from focus groups would be submitted as evidence to the Government's wider review of scheme opt-outs for all the public service pension schemes.

5. Governance of the post 2015 Scheme – FPC(12)6

- 5.1 The Chair introduced paper FPC(12)6 which set out the Independent Public Service Pensions Commission's (IPSPC) recommendations on future scheme governance, administration and transparency for the public sector pension schemes. In particular, the paper invited comments on the IPSPC's recommendation to have local pension boards and how this should be taken forward for the firefighter pension scheme. He welcomed initial comments by cop 17th August.

ACTION: Members invited to submit comments by cop 17th August.

- 5.2 Cllr Maurice Heaster of the LGA made reference to the recommendation for schemes to have separate Pension Boards and Pension Policy Groups. He suggested that, in its current format, the Firefighters' Pension Committee would not constitute a Pension Policy Group. He said that there didn't appear to be a clear proposal of how we get to the position of having these two separate roles. The Chair responded that the object of this agenda item was to initiate debate on how local Pension Boards could work within current FRA structures, and welcomed views from Committee members.
- 5.3 Ivan Walker said that when the FPC was set up, DCLG had a more 'hands on' role with providing guidance to FRAs on the administration of the pension schemes; this could explain why the role of local Pension Boards for the fire schemes was missing. He said that as DCLG had now withdrawn from this role and FRAs were still looking for guidance. The Chair responded that this was not just about guidance, but accountability at the right level.
- 5.4 Alyson Hall confirmed that GMFRS had set up a local Pensions Group with the role of looking at the day to day running of their pension schemes. This was in recognition that there was a need for decisions on the scheme to be progressed to senior management. She said that she was happy to share GMFRS's experiences of setting up this Group with the Committee.
- 5.5 Terry Crossley made reference to recent changes to the membership of the FPC and said that, at present, it represented an 'embryo' Policy Group for firefighter pensions, which was similar in structure to that of the Pensions Review Group for the LGPS. He also emphasised the need for the FPC to start thinking about the future structure of FRAs with respect to the administration of the 2015 fire scheme; the collection of pensions data; and to local decision making on pension matters.
- 5.6 Glyn Morgan suggested that this provided a good opportunity for employers to work together to get a consistent approach to administering the fire schemes.

6. Pensionable pay, duty systems, and scheme liabilities – FPC(12)7

- 6.1 The Chair advised members that committee paper FPC(12)7 had been submitted by the FBU and invited Sean Starbuck to introduce the paper.
- 6.2 Sean Starbuck explained that the paper attempted to highlight concerns about unfunded past service liabilities created by the implementation of a local 'Daycrewing plus' duty system, which has resulted with some firefighters being awarded substantial increases in pensionable pay of 29%. There was also evidence that this new duty system was specifically being directed at firefighters nearing retirement which had the effect of exacerbating the level of the unfunded liabilities, and that this would ultimately be picked up in future Valuation exercises. There were also

additional cost implications in that fewer members would be paying future contributions. He said that the FBU had raised the issue for DCLG and the FPC to consider what checks and balances were needed to prevent this from happening. The Chair agreed that the introduction of new duty systems and the consequential creation of unfunded past service liabilities for the schemes was a matter of serious concern for the Department. He said that these substantial increases in pensionable pay would ultimately be reflected in the next Valuation exercise and could impact on employer and employee contribution rates.

- 6.3 Cllr Maurice Heaster said that over the last 2 years the Fire Service has been adapting to working with significantly fewer firefighters. This has required FRAs to introduce new and innovative ways of working in order to generate savings. He said that whilst he appreciated that some of the new ways of working had been introduced at a cost to the pension schemes, there existed a Valuation process which would take account of the costs of the scheme.
- 6.4 The Chair said that the costs associated with decisions taken by a few FRAs could be borne by all FRAs and questioned whether this reduced accountability. He said that DCLG was currently considering how to respond to the proposals to amend the definition of pensionable pay that was consulted on last year, in the light of the Norman v Cheshire judgment. He said that it might be the case that DCLG decides to withdraw the proposed amendment from the draft amendment order for further consideration; this would include how to ensure FRAs consider the costs to the pension scheme associated with local decisions.
- 6.5 Glyn Morgan said that he did not see why the definition of pensionable pay should be amended to take account of this problem; FRAs who make these decisions should be liable for the associated unfunded past service costs.
- 6.6 Terry Crossley said that whilst he agreed with Cllr Heaster in that it was good to see FRAs creating new ways of reducing costs, FRAs should not assume that the Pensions Top Up grants would continue to absorb these additional pension costs.
- 6.7 Ian Hayton highlighted that the introduction of these new duty systems would only impact on the costs of the scheme in respect of those firefighters where the duty system becomes a permanent part of their career. For those firefighters where the employment on the duty system is temporary then there should be no additional costs to the scheme.
- 6.8 James Dalgleish shared Ian Hayton's view that some of the duty systems may be temporary in nature and, as such, the pending amendments to pensionable may be sufficient to deal with this. There was a need to determine how prevalent the issue was, otherwise, there was a risk of getting a distorted picture. He said that there was also a need to consider the impact of future proposals on local issues such as service level management, and workforce/duty requirements etc.

- 6.9 The Chair thanked Sean Starbuck for tabling the paper and re-enforced that this was something the Department would look at in more detail.

7. Auto-enrolment – FPC(12)8

- 7.1 Sharon Mayers explained that the committee paper set out the proposed amendments required to the 2006 scheme in order to comply with new automatic enrolments regulations. Under the automatic enrolment regulations, employers will be required to enrol eligible workers, who are not contributing to a pension scheme, into a qualifying scheme every three years, of which 1992 and 2006 firefighter schemes were qualifying schemes. Enrolment would take place from an employers staging date, and DCLG understands that the earliest staging date for an English FRA will be 1st January 2013. Sharon said that it was DCLG's view that as the 1992 scheme was closed to new membership no amendment was required; however, the 2006 scheme would require appropriate amendment in order to comply with re-enrolment requirements – the proposed amendments were set out in the paper.
- 7.2 Alyson Hall confirmed that GMFRS was well aware of the new auto-enrolment requirements and were well advanced in the process of setting up the supporting administrative systems.
- 7.3 James Dagleish highlighted that the removal of Part 2, Rule 6(3) could potentially have significant financial implications for FRAs in that it would let members in the process of being dismissed on health grounds to rejoin the scheme's membership to benefit from potential ill-health retirement enhancements. The Chair accepted that this was a risk but said that the retention of this provision would prevent the 2006 scheme from fulfilling the requirements of auto-enrolment. He said the alternative would be to an alternative pension scheme for auto-enrolment which would require each FRA to undertake periodical procurement exercises.
- 7.4 The Chair concluded by explaining that DCLG intended to consult on the proposed amendments to the 2006 Scheme during the summer so that the amended legislation is in force for 1st January 2013.

8. Board of Medical Referees contract – FPC(12)8

- 8.1 The Chair made reference to the provision of the Board of Medical Referees (BMR) in both the 1992 and 2006 Schemes. The current contract for the provision of the BMR was held by Health Management Limited (HML) and was due to expire on 30th September 2012. There was discretion within the current contract that enabled DCLG to grant an extension to the current contract for a further two years. DCLG were currently considering granting an extension of the contract to HML until 30th September 2014 and were seeking the Committee's views before making a final decision.
- 8.2 No objections were raised and it was the consensus of the Committee that an extension of the current contract to HML would be appropriate.

8.3 James Dalglish said that DCLG should be mindful of the lengthy procurement process involved with tendering for a new contract and should, therefore, allow sufficient time when tendering for the new BMR contract in October 2014.

9. Any Other Business

9.1 Ivan Walker made reference to the IQMP guidance. He said that paragraph 3.16 of the current IQMP guidance advised FRAs that when determining entitlement to a higher tier ill-health pension the member should be determined as being permanently disabled for undertaking regular employment. This was not wholly correct. He said that it was his view that under the rules of the 1992 Scheme, when considering a member's entitlement to the higher tier ill-health pension, an IQMP was required to consider whether the member was "incapable of undertaking regular employment", whereas, under the 2006 Scheme regulations, the IQMP was required to consider whether the member is "permanently disabled from undertaking regular employment". He said that he had raised the issue with DCLG who had provided an informal view that whilst the current wording of the IQMP guidance reflected the provisions of the 2006 Scheme, it did not accurately reflect the corresponding provision in the 1992 Scheme. Anthony Mooney confirmed that DCLG were in the process of correcting the IQMP guidance and would publish the revised version on the Departmental website in due course.

9.2 To conclude discussions the Chair informed members that this would be Terry Crossley's last FPC meeting as he was due to retire at the end of July, and it was also James Pepler's last meeting as he was changing roles within GAD. On behalf of the Committee, he thanked Terry for all his work and wished a very happy and prosperous retirement, and wished James well in his new role.

10. Dates of future meetings

3 October 2012 (10am)
17 January 2013 (10am)
24 April 2013 (10am)
17 July 2013 (10am)
16 October 2013 (10am)

***Department for Communities and Local Government
July 2012***

Attendees

Andrew Cornelius (Chairman)	DCLG
Terry Crossley	DCLG
Sharon Mayers	DCLG
Anthony Mooney (Secretary)	DCLG
Dr Tony Williams	Consultant
Cllr Maurice Heaster	LGA
James Dalglish	LGA
Jackie Wood	LGA
James Pepler	GAD
Darshan Ruparelia	GAD
Alyson Hall	GMFRS
Andrew Bayne	Kent FRS
Jenny Coltman	SPPA
Gillian McMaster	DHSSPSNI
Kingsley Rees	Welsh Assembly
Sean Starbuck	FBU
Ivan Walker	Thompsons Solicitors
Ian Hayton	CFOA
Trevor Newton	APFO
Glyn Morgan	FOA
John Barton	RFU
Dr Will Davies	ALAMA

Apologies

Ged Murphy	LGA
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