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Title:	<i>The Firefighters' Pension Scheme(FPS) - Future Amendments</i>		
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Summary:	This circular provides (i) an update on the development of the new pension arrangements and related matters, and (ii) a Question and Answer briefing on the proposed changes.		

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The Clerk to the Fire and Rescue Authority
The Commissioner of the London Fire and
Emergency Planning Authority
The Chief Fire Officer

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The purpose of this circular is to update the Fire and Rescue Service on developments on pensions and related matters.

To assist members of the Service and to enable administrators to respond to questions which may be raised with them, we have prepared a question and answer briefing (No. 1/2006). This is attached at Appendix A.

1. New Firefighters' Pension Scheme (NFPS)

- 1.1 Following decisions by Ministers on new pension arrangements which were set out in FPS 2/2005 issued on 8 September 2005, the Firefighters' Pension Committee, which includes representatives of the employers and employees organisations, have been discussing the proposals for the New Firefighters' Pension Scheme.
- 1.2 A Blueprint for the NFPS has been agreed and has now been referred to ODPM lawyers for a Scheme Order to be drafted. A copy of the Blueprint is on our website as are papers and minutes of meetings of the Firefighters' Pension Committee at which the document was discussed. The draft order will be published for consultation as soon as possible.
- 1.3 It remains the intention that the NFPS should come into operation for new entrants to the Fire and Rescue Service with effect from 1st April 2006, when the FPS will be closed to new members. The scheme will be open to regular, retained duty system and volunteer firefighters.
- 1.4 We have established a small group of HR and Pensions Practitioners to look at the guidance which will be required for (potential) scheme members and it is proposed that ODPM should provide draft guidance to assist FRAs.

2. Firefighters' Pension Scheme (FPS)

- 2.1 In FPS 2/2005, we also set out the decisions which Ministers have made on amendments to the FPS, including raising the minimum pension age from age 50 to 55 with effect from April 2013 and change to the arrangements for ill-health retirements.
- 2.2 The proposal to raise the minimum pension age has still to be discussed with the Firefighters' Pension Committee and no decisions have yet been taken on the implementation of this proposal.
- 2.3 Two-tier ill-health pension arrangements have been discussed with the Committee as part of the discussion on the equivalent provisions in the NFPS. It is proposed to implement these arrangements from April 2006 so that the arrangements under the FPS and the NFPS remain broadly similar. This will also facilitate implementation of the new financing arrangements for firefighters' pensions.

2.4 A number of other changes need to be made to the Firefighters' Pension Scheme Order before April 2006. These fall into two main groups: those consequential on the new tax regime for pensions and those required by the new financing arrangements for firefighters' pensions.

2.5 The details of these changes are set out in Appendix B.

3. New Compensation Arrangements

3.1 In Appendix B, there are references to the changes which we must make to the injury benefit provisions because of the new pension tax regime, Ministers are also considering the need for changes to the death and injury arrangements to meet the future needs of the Fire and Rescue Service and to ensure that the arrangements work effectively for members of both the FPS and the NFPS. It is proposed that a consultation document should be published in due course.

UPDATE ON THE NEW PENSION ARRANGEMENTS – No. 1/2006

We have previously issued updates on the proposals for new pension arrangements for firefighters, however there remain concerns about the possible impact of the changes on members of the Firefighters' Pension Scheme (FPS). The purpose of this update is to provide informed answers to the questions which are being raised with us and administrators in the Fire and Rescue Service.

The Firefighters' Pension Scheme (FPS)

1. When will changes be made to the Firefighters' Pension Scheme?

Some changes to the FPS have to be made in April because a new tax regime for pensions is being introduced and new financing arrangements for the payment of pensions are coming into operation. Changes will also be made to the arrangements for ill-health retirements so that there are similar provisions for both the FPS and the new pension scheme (NFPS) – see question 9 below.

Further changes to the FPS which will raise the minimum pension age from age 50 to 55 have been agreed by the Government. It has been made clear that these will only affect scheme members who are not entitled to retire at age 50 before April 2013. The details of this proposal have still to be discussed with stakeholders in the Firefighters' Pension Committee. This is dealt with at 4 below.

2. Why is it necessary to make changes to the FPS which members have been paying for since joining the service?

All pension schemes are being reviewed and subject to change and the Firefighters' Pension Scheme is no exception.

The cost of the FPS is increasing and although members pay a contribution of 11% of pensionable pay this reflects the fact that a full pension is payable from age 50 with 30 years' service. The full cost of the scheme is 37.5% of pensionable pay and this has increased from 34.75% in the mid-1990s, without any increase in employee contributions. The changes will reduce costs and ensure that, for the time being, there will not be a need for any increase in the employee's contribution rate.

After these changes, the FPS will continue to remain a more generous scheme than other public service schemes.

3. Why is it necessary to make changes, when the Government is getting the FPS on the cheap? The Government is giving a false impression of expensive costs and this is highlighted in the inaccurate high figures quoted for ill-health retirements.

As explained above, the FPS is not cheap. The cost of the scheme is currently 37.5% of pensionable pay against the 18 – 22% which is more usual for public service pension schemes. The reason for this is that a full pension of 2/3rds of final salary can be paid from age 50 with thirty years' service. It is more usual for full pensions to be paid from age 60 with 40 years' service. So, although a firefighter pays 11% of pensionable pay rather than 6 – 7 %, the taxpayer must pay 26.5% rather than 12 – 15%.

One of the reasons for the high cost of the FPS is the level of ill-health retirements. Although, the number of ill-health retirements has reduced over the last few years from over 70% in the 1990s, the level still remains higher than in any other public service. These are the figures:

2002-3: 16.9 per 1000 employees; 62% of retirements
2003-4: 15.3 per 1000 employees; 46.3% of retirements
2004-5: 9.5 per 1000 employees; 25.1% of retirements

4. When will the age at which members of the FPS will be able to retire be increased?

We are proposing to raise the minimum pension age from age 50 to 55 with effect from April 2013.

The proposal was the subject of public consultation in October 2004 and the Government announced its intention to make the change in September 2005.

Implementation of the proposal will be subject to detailed discussion in the Firefighters' Pension Committee before the change is made.

The Government has made clear that pensions would continue to accrue after 30 years' service up to a maximum of 35 years to give a maximum pension of 35/45^{ths} against the current 40/60th.

Alternatively, members would be able to retire from age 50 and take either a deferred pension or an actuarially reduced pension. Benefits accrued before April 2006 will continue to be payable from age 50 with 25 years' pensionable service.

5. Is it true that the flexible duty allowance will not be pensionable from April 2006.

No changes are proposed to the definition of pensionable pay in the FPS and the flexible duty allowance will continue to remain pensionable for members of the FPS.

It is proposed that the allowance should not be pensionable under the NFPS but this is still subject to discussion and ODPM have asked the employers for their further views on the matter.

6. Why are we the only 999 service which has not been offered ring-fencing of retirement age for existing members?

Many members of the FPS will be unaffected by the raising of the minimum pension age; and others will see advantages since they will be able to leave at age 55 with an improved pension. Whilst it is true that Police Pension Scheme is not being changed for existing members, members of the Ambulance and Coastguard Services already have less beneficial pension arrangements than firefighters. In the case of the Ambulance Service the normal pension age is 60, although members can retire from age 50 with an actuarial reduction. These pension arrangements are currently subject to review.

7. Is it true that the FPS will be closed in 2013 and members transferred into the New Firefighters' Pension Scheme?

No. As explained in response to question 1 above, changes will be made to the FPS which will raise the minimum pension age with effect from April 2013, but the scheme will not be closed to existing members.

The New Firefighters' Pension Scheme (NFPS)

8. When will the new Firefighters' Pension Scheme come into operation?

We are aiming to introduce the new Firefighters' Pension Scheme (NFPS) for firefighters joining the Fire and Rescue Service from April 2006. The existing Firefighters' Pension Scheme (FPS) will be closed to new members from 1st April 2006.

9. Will I be able to transfer into the new firefighters' pension scheme?

Yes. When the NFPS comes into operation, members of the FPS will be provided with information about the new scheme and will be given the opportunity to transfer either all their service or future service.

At the same time changes will be made to the arrangements for ill-health awards. The new arrangements, which will be in line with those in the NFPS, will provide two different awards. A lower tier awarded where the scheme member is able to take other regular employment; this will provide a pension based on service accrued in the scheme. A higher tier will be awarded when the member is unable to undertake other regular employment; this will provide an enhanced pension. Enhancements for members of the FPS will continue to be based on the existing provisions. Regular employment will be defined as 30 hours per week.

The proposal was the subject of public consultation in October 2004 and the Government announced its intention to make the change in September 2005. Since then there has been detailed discussion on the proposal as part of the Firefighters' Pension Committee's discussions on the new firefighters' pension scheme. The FBU is represented on the Committee.

The amendment will reduce the cost of the Firefighters' Pension Scheme by about 2% of pensionable pay. This is significant as the current cost of the scheme is 37.5%, of which members pay an employees contribution of 11%. The balance of 26.5% has to be found by council tax payers.

10. If firefighters die at incident, it is unacceptable to treat their families differently. The FPS should remain as the single scheme for all firefighters.

Under the FPS, benefits are linked to length of service, so the FPS already treats firefighters and their families differently depending on the scheme member's length of service. Whatever the cause of death, whether at incident or natural causes, the survivors of a firefighter who dies in service, whether he/she was a member of the FPS or the NFPS, will be treated similarly. The following table shows the pension which the widow(er) or civil partner of the firefighter can expect to receive, assuming pensionable pay of £25,000 p.a.:

Age/Service	FPS	NFPS
Less than 4 years/ Age 25	£833	£833
5 years/ age 25	£2,083	£1,771
10 years/ age 30	£4,166	£3,333
15 years/ age 35	£4,583	£4,687
20 years/ age 40	£5,625	£5,833
25 years/ age 45	£7,708	£6,770
30 years/ age 50	£8,333	£7,500
35 years/ age 55	£8,333	£8,021
40 years/ age 59	£8,333	£8,333

The proposals for the NFPS were set out in the Blueprint for the new scheme which was published on 8 September 2005 and has been available on the ODPM website. The document has been subject to detailed discussion in the Firefighters' Pension Committee, which has met 6 times since then. Minutes of these meetings are available on the website.

Injury awards, which are non-contributory, will continue to be paid on the same basis as at present: these include special and augmented awards which supplement the survivor's pension and are paid if the firefighter dies as a result of an injury received on duty.

11. Is it right, given the nature of the job, that firefighters should be expected to continue in the work until age 60?

The role of a firefighter covers a wider range of work activity than firefighting and there will be greater emphasis in the future on these other activities including community fire safety and fire prevention.

In addition, the average age of recruits to the Fire and Rescue Services is rising and this is expected to continue. This means that already more firefighters want to remain in service beyond age 55 plus to maximise their pensions.

Compensation arrangements

12. Are the Government proposing to alter the arrangements for those forced to retire because of an injury received in the course of duty for all existing members?

The Government are reviewing the death and injury benefits currently available to firefighters. These are non-contributory benefits and provide an earnings guarantee for a firefighter injured on duty. Death and injury benefits are non-contributory and are paid for by fire and rescue authorities from their operating accounts. The burden is borne by council tax payers.

The Government will be publishing a consultation paper setting out proposals for change. There will be full public discussion before any changes are made.

In the meantime, the death and injury benefits which are currently set out in the Firefighters' Pension Scheme will be separated out from the Scheme and placed in a self-contained compensation scheme. This is required if the Firefighters' Pension Scheme is to remain a registered pension scheme under the new tax regime for pensions which comes into operation in April 2006. Remaining a registered scheme is beneficial to members in that pension contributions are non-taxable. There will be no changes to the arrangements.

13. Is it true that as the Grey Book (6th Edition) has no provision for the death benefit of 5 years salary for on duty deaths, death benefit will in future be limited to a maximum of 3 times pensionable pay?

No, this is not true. The reason the Grey Book now makes no reference to the death benefit is because the Audit Commission has made clear that such payments are unlawful. The Government has agreed to put the payments on a statutory basis and the necessary provision will be included in the compensation scheme which is currently being drafted and will come into operation from 1st April (see section 12 above).

This means that the widow(er), civil partner and unmarried partner of a firefighter killed on duty will continue to be eligible for death benefit of 5 x pensionable pay. This is in addition to any death grant paid under the relevant pension scheme. The death grant payable under the FPS is 2 x pensionable pay and under the NFPS 3 x pensionable pay.

Main Benefits – Existing Firemen’s Pension Scheme Order 1992 (FPS) and New Firefighters' Pension Scheme (NFPS)

	Existing Scheme	New Scheme
Eligibility	Regular firefighters.	Firefighters (regular, retained and volunteer firefighters).
Type of Scheme	Final salary	Final Salary
Funded or Unfunded	Unfunded	Unfunded
Rate of Accrual for pensionable service	1/60 th for each of the first 20 years, 2/60ths for next 10 years to maximum of 40/60ths. When minimum pension age raised to 55 in 2013, additional 1/45 th for each extra year.	1/60 th for each year with an option to commute part of the pension into a lump sum.
Pensionable Pay	Pensions calculated on the best average pensionable pay out of the last 3 years.	Core pay and permanent emoluments. Pensionable pay would be the best of the last 3 years.
Pension Lump Sum	By commuting up to ¼ of pension.	A fixed rate commutation factor of £12:1 and to commute up to a ¼ of the pension.
Normal retirement age	Minimum pension age 50 – to be raised to age 55 for those retiring from April 2013. Normal pension age of 55	Normal pension age of 60.
Resignation	Deferred pension age of 60 (65 from April 2006).	Deferred pension age of 65.
Early payment of benefits	From age 50 with 25 years service.	From age 55 with actuarial reduction; or, based on management needs, without any reduction.
Death Benefit	2 x pensionable pay.	3 x pensionable pay
Survivors’ Pensions	<p>Eligibility: Spouses and Civil Partners.</p> <p>Pension ceases on remarriage or formation of a subsequent civil partnership.</p>	<p>Eligibility:</p> <ul style="list-style-type: none"> • Spouses • Civil Partners Partnership Act 2004. • Unmarried Partners who registered it with the Scheme Administrator. <p>The survivor’s pension will be a lifetime award.</p>
Children’s Pensions	<p>Child’s allowance or gratuity -Payable to:</p> <ul style="list-style-type: none"> • Children under 16; • 16 to 17 except where in full-time employment; • 17 to 19 where in full-time education/training or permanently disabled • 19 or over if in full-time education. 	Child’s allowance payable up to age 23 if the child is in full time education, otherwise the pension would cease at age 18.

1.0 Tax Simplification

1.1 As a consequence of the Finance Acts 2004 and 2005, HM Revenue and Customs are introducing a simplified tax regime for pensions that will come into force on 6th April 2006. In order to meet its requirements a number of changes have to be made to the Firefighters' Pension Scheme (FPS).

1.2 The main changes that will affect the FPS, and other public sector schemes, are new limitations on how and when lump sum awards or gratuities may be made, and new roles and responsibilities for administrators. There is also an important change to the time limits for commutation. The main areas for amendment are as follows:

- **Short service award:** Where a firefighter retires with less than 2 years' pensionable service, the FPS provides for a short service gratuity under rule B2(2). This gratuity is calculated in Schedule 2, Part IV and provides for the greater of a member's aggregate pension contributions or 1/12th of his average pensionable pay multiplied by the period in years of his pensionable service. Under the new tax regime a short service gratuity will not be permitted to exceed the aggregate of a member's pension contributions and an amendment will be required so that the amount of short service gratuity will equal the aggregate of a member's pension contributions in all circumstances, including for an ill-health gratuity.
- **Repayment of aggregate pension contributions:** We will also need to make clear in rule B6 that pension contributions can only be repaid where a member has accrued less than 2 years pensionable service.
- **Commutation:** The FPS allows members to commute up to a quarter of their pension into a lump sum payment, when they retire. This provision currently requires a member to notify the FRA of his/her intention to commute part of their pension no later than 6 months after retiring. Under the new tax rules, and from 6th April 2006, commutation will only be permitted if notice is given before a member's intended date of retirement. Rule B7 will therefore be amended so that any notice of commutation must be given before a member's intended date of retirement.

Rule B7 will also need to be amended to include the new requirement for commuted lump sums to be paid within a period of 3 months beginning with the day on which the member becomes entitled to it.

- **Commutation of small pensions:** The FPS provides FRAs with the discretion to commute to a gratuity a member's pension that is

below a certain level. The new tax rules place an upper limit on the amount of pension that may be commuted of 1% of the standard lifetime allowance (SLA). The SLA for 2006/07 is set at £1.5 million. Rule B8 of the FPS will need to be amended accordingly.

Similar limitations apply to the Gratuity in lieu of surviving spouse's pension (E5) and the Gratuity in lieu of child's allowance (E6). As in Rule B8, the amount of gratuity is limited to not more than 1% of the SLA.

In addition, lump sum death benefits can only be paid where the member dies before their 75th birthday and payment must be made before the date the member would have reached their 75th birthday.

- **Deduction of tax from certain awards** - Scheme Administrators will be required to pass on any tax charges on scheme members by payover to the HM Revenue and Customs and subsequent recovery from payments. An appropriate amendment will be made to Rule B11.
- **Spouse's Ordinary Pension** - Rule C1(3) of the FPS currently provides a spouse or civil partner with the option of converting their survivor pension into a reduced pension and gratuity. The new tax rules no longer permit payment of this gratuity and, therefore, the option will have to be removed.
- **Payment of periodical contributions for increased benefits:** From 6th April 2006 there will no longer be the 15% cap on the tax privileged pension contributions. The new tax rules will permit contributions equivalent to an individual's relevant taxable UK earnings for the year. As a consequence Rule G7(3) will need to be removed. However, a scheme limit will remain so that accrued service plus increased benefits cannot exceed 40/60^{ths}.
- **Pension debit members - restriction on replacement of debited rights:** Under Rule G9, a pension debit member is prohibited from replacing any rights debited as a consequence of a pension sharing order with any rights that he would have been unable to accrue had the order not been made. After 6th April 2006 these restrictions will no longer apply on divorce and Rule G9 will be removed. A scheme limit will remain so that accrued service benefits can not exceed 40/60ths.
- **Scheme Administrator:** Under the Finance Act 2004 pension schemes are required to appoint a Scheme Administrator whose responsibilities include filing the Event Reports, Pension Scheme Return and Accounting for Tax forms. The FPS is administered by Fire and Rescue Authorities and we have been seeking clarification from the HMRC as to how the role of Scheme Administrator will apply to the FPS (and other similar schemes). The HMRC have decided that a scheme such as the FPS will be treated as a "split

scheme”, that is a registered pension scheme that is treated as having been split in to two or more “sub schemes”. Each FRA will therefore be required to appoint a Sub Scheme administrator. We are seeking further clarification from HMRC on whether the appointee must be a named individual or a corporate body. A new provision under Rule L will need to be inserted to specify the requirement.

2.0 Death and Injury Compensation benefits

- 2.1 The new tax regime for pensions will recognise relevant statutory pension schemes such as the FPS automatically and will treat them as registered for tax privilege purposes. However, non-contributory compensatory provisions (ie; benefits not derived from pension contributions) for duty related death and injury that are currently incorporated into the FPS will be regarded as unauthorised under the new regime. This would result in a tax liability for members (injury awards are currently non-taxable) and an additional administrative burden for fire and rescue authorities. Injury benefits would also be added to the value of a member's pension for determining the Lifetime Allowance (LTA), with an adverse impact on members of the FPS.
- 2.2 It is therefore necessary to remove the provisions covering these compensatory awards from the FPS before the 6th April 2006 to ensure that members are not penalised. The existing provisions will be placed into a free-standing Firefighters' Compensation Scheme (FCS). HMRC have confirmed that this will resolve any problems for members of the FPS and for FRAs.
- 2.3 As the new FCS provisions will be affected by the new finance arrangements for firefighter pensions, it has been decided to make these amendments effective from 1st rather than 6th April 2006.
- 2.4 Where death or serious injury occurs on duty, benefits additional to those from the FPS become payable under Section IX, 13 of the Conditions of Service (Grey Book). They are subject to abatement by any damages or other compensation received by the employee or their dependants and any gratuities payable under the FPS. The Audit Commission have taken the view that compensation payments made under these provisions are illegal because Section 27 of the Fire Services Act 1947 (now Section 34 of the Fire and Rescue Services Act 2004) provided for the making of a statutory scheme for payments in death. The benefits were consequently removed from the Grey Book 6th edition but have continued on the basis that they will be replicated in the FCS.

- 2.5 Ministers have agreed to take this opportunity to put these provisions on a statutory footing and place them in the FCS from 1st April 2006. The benefits will remain as they were, however, some changes may be required in order to standardise the wording with other parts of the FCS and the pension schemes.

3.0 New Finance Arrangements for Firefighter Pensions

- 3.1 As you will be aware, ODPM is introducing new financing arrangements for firefighters' pensions from 1st April 2006. There are a number of amendments required to the FPS in order to facilitate these new arrangements.

- **Payment of Employers and Employees contributions towards pension liabilities** : FRAs, in the same way as firefighters, will pay a percentage of pensionable pay towards the future liability for all serving members of the FPS.

Where a member leaves the scheme and is entitled to a refund of employee pension contributions, this refund will be paid from the pension fund. Where this refund of employee contributions happens, a refund of employer contributions will also be made to the FRA's operating account from the pension fund.

- **Payment of contributions when an employee has been absent without pay** :Rule F2(3) of the FPS gives a FRA the discretion to reckon as pensionable service any period where a member has been absent without pay. The new financing arrangements will remove this discretion and make it a member's right to have these periods of absence without pay included as pensionable service. The member will be liable to pay both the employee and employer contributions if they wish these periods to count towards their pensionable service.
- **Payment of Ill-health charges** : From the 1st April 2006, FRAs will be required to make a payment into the pension fund for each employee who retires early with a lower or upper tier ill-health award (please refer to para. 3.1). Both these payments will be paid in annual installments over a three year period and will be determined by the Secretary of State.
- **Authorities responsible for payment of awards** :FRAs are responsible for paying firefighter pensions under Rule L1 of the FPS. From the 1st April 2006 these payments will be made from the pension fund maintained by the FRA.
- **Transfer payments between FRAs** : Transfer payments are currently payable between FRAs under Rule F8 when a scheme member transfers to the employment of another FRA. From

1st April 2006, transfer payments will no longer be paid between English FRAs. Transfer payments will continue to be paid in respect of transfers between England and FRAs with the responsibility of the devolved administrations in Northern Ireland, Scotland and Wales. Transfer values will be paid out of the pension fund.

FRAs who receive transfer values from other pension schemes will receive them into their pension fund.

- **Payment of transfer values** : Amendments to the FPS will be required so that FRAs who pay transfer values in respect of any member joining an approved scheme under Rule F9 will have these transfer values paid from the pension fund.
- **Pension Fund** : Each FRA will be required to maintain a separate pension fund showing all sums received or paid by them under or for the purpose of the FPS.

In order to implement this separate pension fund the FPS will need to be amended to set out that:-

- any deficit on the account should be met from the operating account of the FRA, and similarly any surplus should be carried to the operating account.
- subject to approval of Parliament, the Secretary of State shall, if he considers that the amounts received by a FRA (whether through employer or employee contributions or otherwise) in any year are unlikely to be sufficient to satisfy the payments they are obliged to make under the FPS, to pay them an amount in respect of the shortfall.
- the Secretary of State will recoup any surpluses from the FRAs if the amounts received (whether through employer or employee contributions or otherwise) in any year are in excess of that needed to satisfy the payments they are obliged to make under the FPS.
- **Reporting** : Each FRA will have a responsibility for providing reports and returns to the Secretary of State on payments into and out of their pension fund as required.
- **Guidance** : The Secretary of State will issue Guidance from time to time.

3.2 These amendments will be effective from 1st April 2006.

4.0 The New ill-Health Retirement Provisions

- 4.1 From 1st April 2006, a two tier ill-health retirement arrangement will be introduced. This new arrangement will follow the same principles as that for the New Firefighters' Pension Scheme (NFPS) and will provide two different levels of award for firefighters who are retired on ill-health grounds. A lower tier ill-health award will be awarded to firefighters who are capable of undertaking other regular employment and a higher tier ill-health award will be awarded to those who are not capable. For this purpose, regular employment will be defined as employment for 30 hours per week.
- 4.2 A lower tier award will be a pension based on the pensionable service that the firefighter has accrued in the scheme. The higher tier award will provide the firefighter with an enhanced pension based on the current ill-health enhancements.
- 4.3 There are a number of amendments required to the FPS to facilitate the new ill-health arrangements:
- 4.4 These amendments will be effective from 1st April 2006. Any firefighter who has a case being considered on or before 31st March 2006 will be dealt with under the existing ill-health provisions.