

FIREFIGHTERS' PENSION COMMITTEE

NEW FIREFIGHTERS' PENSION SCHEME

**ISSUES RAISED AT WORKSHOPS ON 15TH & 23RD MAY
AND 1ST JUNE 2006**

Note by DCLG

A note summarising the issues raised by attendees at the workshops organised by DCLG on 15th June (London), 23rd June (West Midlands) and 1st June (Manchester) and the Department's responses is attached.

The Committee is invited to note.

June 2006

NEW FIREFIGHTERS' PENSION SCHEME (NFPS)

WORKSHOPS: 15 and 23 MAY, and 1 June 2006

ISSUES RAISED

Membership

- Concerns about position of senior ranks where there has been multi-tier entry - who would qualify for the NFPS – issues of equal treatment may be raised.
- Also about managers joining NFPS on recruitment and working alongside colleagues who have been promoted up through the ranks and remain members of the (closed) FPS.
- Also about access by others who transfer on promotion within the service e.g. from firefighter (control) to station manager. This might also open the avenue for claims for membership from other groups (e.g. control staff more generally and support staff).

Response

Eligibility for membership is confined to those whose role on joining the FRS includes engaging in fire fighting or attendance at other emergencies covered by sections 8 and 9 of the Fire and Rescue Services Act 2004. As with the existing scheme, the NFPS is designed for firefighters whose role carries inherent risk of injury. It has also been accepted by Ministers that a normal retirement age (pension age) of 60 rather than 65 can be justified by the physical standards required for firefighting.

Where someone in a supervisory role is required to attend incidents, and there is continuity of service it is intended that they should continue in the scheme.

Where someone takes another job so that he/she is no longer a firefighter, or in a related management role, he/she would no longer be eligible for membership of the scheme.

If a person joins the service in a more senior role than that of firefighter and will not be required to attend incidents in a supervisory role, it is not intended that he/she should be eligible to join the scheme.

The issue is being discussed further with CFOA.

The definition of eligibility for the NFPS will be contained within the Order.

- What happens in respect of the NFPS on transfer to a role outside that of a firefighter? Do they have to move to the LGPS with a split pension?

Response

Provided the person remains in a relevant firefighter role, with continuity of service, we have taken the view that he/she should be eligible to remain a member of the

NFPS. If they move outside a relevant role they would cease to be eligible and would have to take a deferred pension or a transfer value.

- Concerns about the need for consistency, particularly as, whilst the rolemaps are national, there are local flexibilities. What guidance will DCLG issue and will there be any formal appeal arrangements?

Response

The NFPS will provide the necessary definitions and DCLG will provide guidance on the application of the Scheme. Administration of the Scheme will be a matter for FRAs and appeal arrangements will be in accordance with normal procedures including reference to the Pensions Ombudsman and the courts.

Pensionable Pay

- Need for consistency on pensionable pay particularly as there can be local pay additions.

Response

The NFPS will define pensionable pay. We have agreed that it should be “core pay plus flexible duty allowance or allowance for temporary promotion paid and all permanent emoluments, including any retaining allowance”. We have made it clear that temporary emoluments will not be pensionable

Options exercise for the NFPS

- Concern about resources available to handle exercise and the cost of the exercise.

Response

FRAs have been aware that a new pension scheme would be introduced “no later than April 2006” since October 2004 when the consultation document on proposals for a new firefighters’ pension scheme was published. The resource implications were therefore identifiable at any time over the last 18 months.

- Insufficient support being given to FRAs.
- Can FRAs decide how to disseminate information rather than following recommendations?
- Will test sites be available from Department for Communities and Local Government (DCLG)?

Response

The Department is providing as much support as possible. Handling of the options exercise is being discussed with representatives of practitioners in the Communications Working Group and draft documentation is being agreed with them. Issues relating to implementation are also discussed with the Firefighters' Pension Committee.

Advice issued so far includes the Firefighters' Pension Scheme Circulars (FPSC), 2/2005 and 7/2006 and Guidance Note 3/2006. Further guidance will be issued.

The Department is aiming to provide templates for all the relevant documents which FRAs will be able to use/modify.

FRAs will want to consider how they manage the options exercise and will want to start discussions with any pay and pension providers to ensure the necessary information is readily available. For those who operate software provided by Heywoods, the next release of software will include facilities for providing benefit statements, etc.

To avoid possible disputes later on the Department recommend that a uniform options package should be issued and that its issue should take place at the same time throughout the service. The timescale will be set out in the transitional arrangements order.

Requirements for the options package as recommended by the Communication WG were set out in FPSC 7/2006. The Department would welcome others HR and Pension practitioners to join the Group.

DCLG will maintain its website on firefighters pension issues, but will not provide a test site for estimating benefits.

- [When will transfer factors be available for those wanting to transfer between the FPS to the NFPS?](#)
- [Will transfer factors for the options exercise be time-limited?](#)

Response

We are currently discussing the factors with the Government Actuary and will issue guidance as soon as possible.

We are proposing that more favourable terms should apply for transfers which take place as part of the options exercise. Outside the period of the exercise we envisage that normal (Club) terms will apply.

Transitional arrangements

- How will those people be treated who retire between 6 April 2006 and the options exercise?

Response

FPS scheme members who retire before the options exercise will be unaffected and will retire with benefits under the FPS. They will not be given an option to transfer.

FRAs should make retirees aware of what is going to be happening and that by retiring they will lose the opportunity to join the NFPS.

- What will be the position of survivors whose partners die between 6th April and the options exercise and who are given the option of taking benefits under the NFPS rather than the FPS? Have Revenue and Customs expressed a view on the possibility that if benefits are paid first under the FPS and then topped up when the NFPS Order comes into operation there may be an unauthorised payment?

Response

We are proposing that, if an active member of the FPS dies during the bridging period and the benefits payable under the NFPS would be more advantageous to the surviving spouse/civil partner, that they should be paid benefits under the NFPS, i.e. it should be assumed that they would have transferred.

In the case of an unmarried partner it will depend on whether they have completed the proposed nomination form and satisfy the conditions of the NFPS.

We are seeking confirmation from HMRC that, as with back dated pay awards (see below) that if an award is increased once the NFPS comes into operation there would need to be a second crystallization event. The member would become entitled to the additional payment once the amount has been determined. This means that the 3 month pension lump sum rule for the revised award would “bite” from the date that the revised award is determined, giving sufficient time for any additional lump sum entitlement to be calculated and paid.

- If back payments of contributions for period April to October are expected (e.g. for RDS firefighters who opt to join the NFPS) they should be expected to pay outstanding contributions within the financial year.

Response

Agreed

Transfer Values (TVs) - NFPS

- What should be done about TVs during the bridging period where it is not possible to delay the transfer as suggested in paragraph 7.2 of FSPC 7/2006?
- There was a general view that whilst schemes are unlikely to have a tight timetable or no discretion to extend the period if requested, it would be preferable not to piggy-back on the FPS.

Response

Whilst it is unlikely that there will be problems, pension credits could be transferred to the existing scheme on the understanding that those affected by the bridging period will have this credit transferred to the NFPS. This may have to be adjusted so that the individual does not `lose` pension credit. For example, it may be necessary to recalculate the pension transfer for the NFPS.

Further advice will be issued as part of the Transitional arrangements.

Benefit statements

- Concern that as some FRAs have not previously issued benefit statements the data held will not be accurate (e.g. marital status, pensionable service, etc). This could result in activity during options exercise sorting out queries: there might be benefit in running a data cleansing exercise between now and October.
- Options exercise needs to be run on basis of pay at end of 2005/6 rather than actuals at October. This was understood to be the case with the police.
- Benefit Statements – who will provide the information needed for the options exercise?

Response

It is recognised that FRAs who have not previously issued benefit statements may find problems with the accuracy of data. However they will be under a statutory obligation to issue annual benefit statements from 2007 and would have to address issues of accuracy then. The Department will support FRAs with the preparation of standardised documentation.

Refunds

- Where excess contributions are paid where an existing scheme member opts to join the NFPS – i.e. 11% - 8.5% - will refunds be made.

Response

We will aim to avoid refunds by making the operative date for transfer the next pay date after the FPS member elects to transfer. In the case of a member who has died in

the period between 6th April and the options exercise, transfer will be assumed from the date of death.

RDS Firefighters

- Information in respect of those on RDS is very limited, further guidance is required. What information should RDS firefighters receive?
- What should be done about those with Stakeholder pensions?

Response

FPSC 7/2006 set out the documentation which would need to be in the options package for RDS firefighters.

FPSC 7/2006 suggested that FRAs with Group Money Purchase arrangements (stakeholder pensions) may wish to ensure that information about the value of any of those benefits is available for the options exercise.

RDS pensionable pay / pay for the NFPS

- Some FRAs are paying those on RDS compensation for attending training sessions. This can be at the rate of the primary employment.
- Pay where individuals work in excess of usual hours. Some FRAs are paying more than the hourly rate – a quasi overtime payment.
- Rent allowance – how should this be handled?
- Sick pay – how should this be handled?
- Purchase of service by RDS – how would this be arranged?
- How would performance related pay be treated e.g. bonus payments etc?
- Whether any enhanced rate of pay for retained firefighters can be counted as pensionable?
- Whether re-imbursalment of a RDS firefighter's primary salary in cases where he is off from his primary employment on unpaid leave as a result of injury received on duty is included as pensionable?
- If RDS firefighters wish to buy added years how would these be calculated and how would their pensionable service be updated each year?

Response

Further advice on RDS to be issued.

Pay for pension purposes will count at the hourly rate.

Overtime payments are not pensionable. If working in excess of “normal hours” for RDS then only the element of pay at the hourly rate would be pensionable.

Rent allowance will not be pensionable.

Someone on RDS would purchase additional service in a similar way to a regular firefighter.

Sick pay should accrue at the hourly rate. If that rate is reduced (similar to a regular firefighter going onto half pay) service should still accrue based on the “normal” hourly rate. Only where the firefighter goes onto ‘No Pay’ would service no longer accrue.

Bounty payments are not expected to continue after the NFPS comes into operation. If they are paid they would not be pensionable.

Day Crewing

- Points discussed about treatment of existing day crewing where part of time is on RDS.

Response

Existing RDS rights will be protected for payment of injury awards on the same basis as a whole-time regular.

Existing RDS firefighters have protected injury benefits. Look at pension entitlement and give the best of the regular pension or best protected benefits.

Split Scheme Administration

- Clarity of the role of the split scheme administrator was sought as some attendees did not understand what this meant.

Response

DCLG will issue further advice on this, which will cover both the existing scheme and the NFPS.

HM Revenue and Customs (HMRC) require that the Pension Scheme has a Pension Scheme Administrator who is responsible for a range of functions and duties in relation to tax administration. For schemes such as the existing FPS and the NFPS (and the Police Pension Scheme and LGPS) these functions are delegated to Local Authorities and under legislation laid by HMRC these schemes are split.

The Scheme Administrator in the case of the FPS and the NFPS will be the Secretary of State and each of the FRAs will have a Sub-Scheme Administrator and the responsibilities mentioned above will be delegated to them.

Pay Awards

- The timing of pay awards means that at least two calculations will be needed each year. More where there are changes in circumstances.
- Pay should be brought in line with financial years.

Response

The timing of pay awards is outside of the pension scheme.

The situation is the same as under the FPS and no-one has previously suggested it might cause a problem.

In the case of a RDS firefighter pensionable service will be calculated as a proportion of the pay of a whole-time regular firefighter of equivalent role and service, reference to the pay earned in any 12 months period

- Advice given by LGPS colleagues on payment of benefits on back pay contradicts the advice we have given.

Response

HMRC/HM Treasury have confirmed that if a backdated pay award resulting in an increase in pension entitlement is paid after the first benefit crystallization event (under BCE2), there would need to be a second crystallization event. The backdated, higher rate of pension would be paid as a separate pension and the member would become entitled to this once the amount has been determined. This means that the 3 month pension lump sum rule for the revised award would “bite” from the date that the revised award is determined, giving sufficient time for any additional lump sum entitlement to be calculated and paid. Although the revised award must be documented as a separate pension for tax purposes, the pensions can be aggregated for payment purposes.

Two-tier Ill Health Retirement in the existing pension scheme

- How do the 2 tier ill-health arrangements interact with injury awards under the existing pension scheme arrangements?

Response

There is no real difference in the interaction. The injury award will be reduced by $\frac{3}{4}$ of whichever tier of ill-health award is due.

- There was confusion on what date cases cease being eligible to be considered under the old ill-health arrangements i.e. attendees seemed to think that it was the date that the IQMP gave his/her written opinion.

Response

The amendments to the FPS make clear that it is a relevant decision under Rules H1 and K1. This is intended to include any decision by the FRA that there is a case for an ill-health and a decision to refer to the IQMP for his opinion.

- There was concern about early payment of an award to a person who had resigned or left because of their conduct.
- If the person was found fit on review, the FRA would not want to take back into service.
- There should be a requirement for re-employment to be subject to a report from line management.
- There was also a view that a person whose contract was terminated should receive an unenhanced pension.

Response

These points will be considered further as the NFPS order is drafted.

Medical Standards

- There was concern about how Medical Advisers will consider whether someone can undertake `regular` employment.

Response

A framework document has been prepared and is now subject to consideration. The proposed guidance has been shown to ALAMA and will be discussed further with them.

The need for a framework to ensure uniformity across the service was supported at the seminars. Colleagues from London offered to provide DCLG with a copy of the advice they already issue to their Medical Advisers.

Regular employment

- The definition of regular employment was thought to be too generous.

Response

This issue had been subject to discussion in the Firefighters' Pension Committee with a range of 20 to 30 hours being considered. 30 hours which was equivalent to 6 hours average per day in a 5 day week was considered a reasonable definition. It also matches the definition used for the New Police Pension Scheme.

Fitness for the NFPS

- The scheme does not set a fitness requirement for entry to the scheme. What should happen if someone returns from a career break? Should they be subject to a health check?

Response

There is no fitness requirement for entry to the scheme, but there is the discretion for the FRA to check health if an optant-out of the scheme then asks to rejoin (to protect against abuse of the scheme).

A FRA will presumably require fitness tests for those returning from a career break. Guidance Note 3/2006 offered advice on career breaks but did not tackle fitness issues, which must be employment and health and safety issues.

FRA's need to have regard to consideration of the financial consequences for the pension scheme if they agree to a career break and should consider excluding those planning activities which carry a risk of injury and compromise fitness for duty. If the Department is not satisfied that career breaks are being properly managed it will need to act to protect the scheme.

If someone has been on a career break and treated as still being a serving member then he/she would be eligible for consideration for ill health benefits.

Unborn children

- Under the NFPS, will unborn children be eligible for children's pensions, including those of a pensioner member?

Response

Providing the mother was pregnant at the date of the scheme member's death a child's pension would be payable.

Eligibility would be the same for pensioner members.

The Order for the NFPS will set out definition of scheme member in respect of proposed provisions and where there may be a difference between serving and pensioner members.

Split pensions in the NFPS

- When the scheme member considers whether to take one or two awards under the NFPS should pensions' increases be included?

Response

The scheme member would need to know the current value of the split pension when making his/her decision about one or two pension awards – i.e. with PI counting from the relevant date.

PI will not be mentioned within the NFPS Order. PI is dealt with by a separate public sector Order. Guidance will be issued.

Buying back unpaid periods of service

- Discretion to pay unpaid contributions. HR would not want to have to refer all cases to the FRA.

Response

The scheme member would need to pay both the employer and employee costs of buying back unpaid periods, but the FRA may exercise discretion to pay the employer contributions.

FRAs will wish to have agreed a clear policy on the circumstances in which the discretion would be exercised. In such cases presumably HR would have delegated responsibility.

It will be a matter for FRAs to determine the extent of the delegation to officers/administrators.

Reduction in adult survivor pensions in the NFPS

- There was concern that the reduction in the adult survivor pension where the survivor is 12 or more years younger than the scheme member may be discriminatory.
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Response

We are satisfied that a reduction is acceptable. Exemptions under the Employment Equality (age) Regulations 2006 include Para17, Part 2 of Schedule 2 “reduction of any pension payable in consequence of a member’s death to any dependant of the member where the dependant is more than a specified number of years younger than the member.”

Purchasing additional service in the NPFS

- What happens if someone buys additional service and they are then retired on ill health grounds before completing the contract?

Response

Service purchased up to the date of the ill health retirement would be added to the pension.

Unmarried partners

- Concerns about members completing nominations for unmarried partners now and not subsequently opting to join the NFPS.

Response

FRAs need to make clear that the nomination will not be valid if the member does not opt to transfer to the NFPS.
