

FIREFIGHTERS' PENSION COMMITTEE
NEW FIREFIGHTERS' PENSION SCHEME (NFPS)
TRANSITIONAL ARRANGEMENTS

Note by DCLG

Introduction

1. Papers FPC(06)5 and 16 (NFPS - Transitional arrangements), which were discussed respectively at the 11th Meeting on 13th February and the 15th Meeting on 13th June, set out issues relating to the introduction of the new scheme and the handling of the options exercise when members of the FPS will be asked to decide whether they wish to transfer to the NFPS.

Drafting Instructions

2. We have now prepared drafting Instructions for the DCLG lawyer setting out the provisions which will need to be included in the NFPS and the amendments which may be needed to the FPS to ensure as smooth as possible a transition to the new pension arrangements.
3. Consequential amendments to the FPS and the Firefighters' Compensation Scheme will be required and these will be set out for the Committee in due course.

Conclusion

4. The FPC is invited to discuss.

September 2006

DRAFT INSTRUCTIONS

THE NEW FIREFIGHTERS' PENSION SCHEME (NFPS) AND THE FIREFIGHTERS' PENSION SCHEME (FPS)

TRANSITIONAL ARRANGEMENTS

The document sets out the arrangements for:

- *Transfer of those firefighters recruited since the 6 April who joined the FPS with the expectation of moving automatically to the NFPS when the Order was made.*
- *Inclusion in the NFPS of retained and volunteer firefighters recruited since 6 April 2006.*
- *Death benefit payments in respect retained and volunteer firefighters recruited since 6 April 2006.*
- *Options exercise for existing regular firefighters*
- *Options exercise for existing retained and volunteer firefighters*
- *Calculation of transferred-in pensionable service*
- *Death benefit payments in respect of retained and volunteer firefighters in post prior to 6th April 2006.*
- *Protection of the position of firefighters employed before 6th April 2006 who were members of the FPS or equivalent scheme and who transfer from employment in Northern Ireland, Scotland and Wales to remain in, or have rights to membership of, the FPS.*

(End of the bridging period as set out in A3 of the Firefighters' Pension Scheme 1992 Order (FPS) would need to be an amendment of the Firefighters' Pension Scheme (Amendment) (England) Order 2006 – SI 1810.)

Amendment to the FPS Order will be necessary.

Transfer to NFPS of firefighters recruited on or after 6 April 2006

1. To set out that-

(1) This Rule shall apply when, in accordance with paragraph 3(3) of the Firefighters' Pension Scheme (England) Order 2006 (i.e. NFPS), a firefighter recruited on or after 6th April 2006 who was a member of the FPS (ie was eligible under rule A3(5) of the FPS to join that scheme). ceases to be a member of FPS at the date of this Scheme coming into force and is transferred from the FPS to the NFPS with effect from that date.

(2) Where a firefighter recruited on or after 6th April 2006 elected under rule G3 of the FPS not to pay pension contributions (ie opted out) that election will apply as if it had been made under Rule 5 of Part 2 of this Scheme (election to opt out). He/she may elect under Rule 6 of Part 2 of this scheme to (re)join this scheme but if he/she subsequently makes another election under Rule 5 of Part 2 not to pay pension contributions (opts out), he/she would not be eligible to elect to rejoin under Rule 6 of Part 2.

(3) Where a firefighter is transferred under (1) the period of time spent as a member

of the FPS will be treated as qualifying service under Rule 1(2)(a) of Part 10 of this scheme.

(4) In accordance with paragraph 3(3)(b) of the Scheme Order and subject to (5), (6) and (7) below, where the new recruit is transferred under (1) the pensionable service accrued within the FPS will be reckonable as pensionable service under Rule 2(1)(a) of Part 10.

(5) Where the firefighter member is transferred under (1) and while subject to Rule A3(5) of the FPS the authority accepted a transfer value payment that payment will be treated as a transfer value payment under Rule 8 of Chapter 3 of Part 12 and transfer value calculated under Rule 10 of Chapter 3 of Part 12, except that paragraphs (2) and (3) of Rule 2 of Part 10 will not apply in this case. (In this way we can ignore the restriction on 40 years by the normal retirement age for these cases only. This is because a transfer payment made to the FPS, which is a more expensive scheme, may not have breached any service limits or the FRA would not have been able to test whether the payment would breach the 40-year limit, but on conversion in the NFPS could exceed the restriction. We would not be able to return the transfer payment to the former Scheme.)

(6) Where a firefighter member is transferred under (1) and that firefighter member elected under Rule G6(1)(b) of the FPS to purchase a specified number of sixtieths by periodical contributions and that election was accepted, that election should be void or cancelled and the firefighter member should be asked to make a new election under Rule 6 of Chapter 3 of Part 11 to purchase additional service under this Scheme.]

Entry to the Scheme of retained and volunteer firefighters recruited on or after 6th April 2006

2. (1) To set out that from the date the Scheme comes into force retained and volunteer firefighters who joined the Fire and Rescue Service on or after 6 April 2006 will automatically be members of the Scheme, unless they elect under Rule 6 of Part 2, not make pension contributions.

(2) Where (1) applies qualifying service for the purposes of Rule 1(2)(a) of Part 10 (Qualifying service and pensionable service) would be the period of time from 6th April 2006 or the date of recruitment as a retained or volunteer firefighter, whichever is the later, up to the date the scheme came into force, subject to (3) and (5) below, calculated in accordance with Rule 6(5) of Part 10..

(3) Subject to (4) where (1) applies pensionable service calculated under Rule 2(5) of Schedule 1 of Part 10 for the purposes of Rule 2(1)(a) of Part 10 would be the period of time from 6th April 2006 or the date of recruitment as a retained or volunteer firefighter, whichever is the later, up to the date the scheme came into force for which pension contributions would have been paid under paragraph 3 of Part 11.

(4) Where (3) applies the authority should issue a notice to the retained or volunteer firefighter within 3 months of the scheme coming into force setting out the pension contributions that he/she would need to pay under Rule 3 of Part 11 so that the period would reckon as pensionable. Only the firefighter's pension contributions would be

payable by the firefighter (unlike Rule 4 of Part 10 where if someone elects to buy an unpaid period of absence he/she is also responsible for the authority's contributions). The retained or volunteer firefighter should make an election to the authority in writing within one month of their notice if he/she wishes to pay the contributions and should make the payment within six months from the date of his/her election. If the contributions are not paid within that period, the period will not reckon as pensionable service. There will be no other opportunities to elect to buy this period.

(5) Where under (4) the retained or volunteer firefighter does not elect to pay pension contributions for the period set out under (3) but still wishes to be a member for future service, the period for which pension contributions were not paid will not reckon as qualifying service as set out under (2) above, and the person will be regarded as an optant out for this period.

(6) If the retained or volunteer firefighter is eligible for an award under Rule 2 of Part 8 of the Firefighters' Compensation Scheme (England) Order 2006, any award should be reduced by the amount of any pension payable under this rule.

Death of a retained or volunteer firefighter recruited on or after 6th April 2006

3. (1) Where a retained or volunteer firefighter subject to Rule 2, died before the Scheme (NFPS) came into force, Part 5 of this scheme (Awards on Death) and Chapters 1 and 2 of Part 4 (Survivor Pensions) would apply.

(2) Where (1) applies qualifying service for the purposes of Rule 1(2)(a) of Part 10 would be the period of time from 6th April 2006 or the date of recruitment as a firefighter, whichever is the later, up to the date of death.

(3) Subject to (4), where (1) applies pensionable service for the purposes of Rule 2(1)(a) of Part 10 would be the period of time from 6th April 2006 or the date of recruitment, whichever is the later, up to the date of death for which pension contributions would have been paid under Rule 3 of Part 11, calculated in accordance with Rule 6(5) of Part 10.

(4) Where (3) applies the pension contributions that would have been paid under Rule 3 of Part 11 will be notified to the personal representatives and the amount owed deducted from the death grant.

(5) Where the retained or volunteer firefighter has nominated a partner under Part 2, Rule 1(2) and (3) in anticipation of the scheme coming into force and the nomination has been received and accepted by the fire and rescue authority but has died before that date, the nominated partner shall be entitled to the same benefits as he/she would have been had the scheme come into force.

Options exercise for FPS members

4. (1) The authority shall within 6 months of the scheme coming into force issue personal benefit statements, which will include how much service would accrue if the person was to transfer the rights to benefits in the FPS to the NFPS, to members of the FPS who were in the scheme before 6th April 2006 setting out that they may elect within 3 months of the date of the statement to transfer from the FPS into the NFPS

with effect from 6th April 2006 or a forward date and in the event of such an election either to-

- (a) defer in the FPS the rights to benefit that have accrued to him/her under the FPS;
- or
- (b) apply to transfer the rights to benefits that have accrued to him/her under the FPS to this Scheme subject to Rule 5(1) (Calculation of transferred-in pensionable service) below.

(2) Where under (1) the member opts to transfer to the NFPS his/her membership of the FPS will cease from the agreed date and he/she will be a member of the NFPS with effect from the day after the last day in the FPS.

(3) Where an application is made under (1)(b), and the authority is satisfied that the transfer can proceed under (5), the transfer should be completed within one month from the date the application was received

(4) When the transfer has been completed the authority shall issue a Certificate of Pensionable Service setting out the amount of service credited in the NFPS as a result of the transfer to the person within one month of the completion of the transfer process.

(5) A transfer cannot proceed if the amount of pensionable service that would accrue from the transfer as calculated under paragraph 5 plus prospective service up to the normal retirement age would exceed 45 years by the normal retirement age.

(6) Where the person elects under (1) to join the scheme from 6th April 2006, pensionable service accrued in the FPS from this date will be cancelled and qualifying and pensionable service will accrue in this scheme from that date. Pension contributions paid for that period will be transferred from the FPS to the NFPS and any excess contributions paid for that period (11% - 8.5% for the period) refunded within 3 month(s).

Calculation of transferred-in pensionable service

5. (1). Transfer values under this Part will not be calculated in accordance with Chapter 3 of Part 12 except where otherwise specified ((6) of section 6 below).. Instead the authority should calculate the pension credit to be offered by reference to the guidance and tables supplied by the Scheme Actuary for transfers under this Part

(2) The guidance and tables under (1) will no longer apply once the 3 months options period referred to in 4(1) above has ended. Any subsequent request to transfer pension rights from the FPS to NFPS would be subject to the requirements of Chapter 3 of Part 12 of this Scheme.

Options exercise for retained and volunteer firefighters employed prior to 6th April 2006

6. (1) The authority shall within 6 months of the scheme coming into operation issue a statement to all retained and volunteer firefighters who were employed in that role prior to 6th April 2006 setting out that they may elect within 3 months of the date of issue of the statement to join the NFPS with effect from 6th April 2006.

(2) Where an election is made under (1) to join the NFPS from 6th April 2006 the authority shall issue a notice to the firefighter setting out the pension contributions that he/she would need to pay so that under Rule 3 of Part 11 the period (6th April 2006 to the date he joins the scheme) can reckon as pensionable. The retained or volunteer firefighter would be responsible for only his/her own pension contributions. The authority would be responsible for the payment of the employer's pension contributions for this period. The contributions will be paid into the Firefighters' Pension Fund established and maintained under Part 13 of the scheme.

(3) Any election made under (2) should be in writing within three months of the authority's notice and the payment of the contributions should be made within six months of the date of the election. If the contributions are not paid within that period, the period will not reckon as pensionable service. There will be no other opportunities to elect to buy this service other than under Part 11, Chapter 4.

(4) Where under (3) the new firefighter recruit does not elect to pay pension contributions for the period set out under (2) but still wishes to be a member for future service the period for which pension contributions were not paid will not reckon as qualifying service for the purposes of Rule 1(2)(a) of Part 10 as set out under (2) above.

(5) Where (1) applies pensionable service for the purposes of 2(1)(a) of Part 10 would be the period of time *from 6th April 2006*, for which pension contributions would have been paid under paragraph 3 of Part 11 and are paid under (3), calculated in accordance with Rule 6(5) of Part 10.

(6) Where (1) applies he/she would be subject to Chapter 3 of Part 1 in respect of any request for a transfer value to be paid into the scheme.”

Death of a retained or volunteer firefighter employed prior to 6th April 2006

7. (1) Where a retained or volunteer firefighter employed prior to 6th April 2006 dies on or after that date and before -

- the Scheme comes into force or
- after the scheme comes into force but before the options exercise has been completed and he/she has not indicated that he/she will opt out

he/she will be deemed by the authority to have made an election to join the Scheme with effect from 6th April 2006.

(2) Where (1) applies the authority shall within one month of the death or the scheme coming into operation, whichever is the later, pay whatever benefits may be payable under Part 5 of this scheme (Awards on Death) and Chapters 1 and 2 of Part 4 (Survivor Pensions).

(3) Where (1) applies qualifying service for the purposes of Rule 1(2)(a) would be the period of time from 6th April 2006 up to the date of death.

(4) Where (1) applies pensionable service for the purposes of Rule 2(1)(a) of Part 10 would be the period of time from 6th April 2006 up to the date of death for which pension contributions would have been paid under paragraph 3 of Part 11, and calculated in accordance with Rule 6(5) of Part 10.

(5) Where (4) applies the pension contributions that would have been paid under Rule 3 of Part 11 will be notified to the personal representatives and the amount owed deducted from the death grant.

(6) Where the retained or volunteer firefighter has nominated a partner under Part 2, Rule 1(2) and (3) in anticipation of the scheme coming into force and the nomination has been received and accepted by the fire and rescue authority but has died before that date, the nominated partner shall be entitled to the same benefits as he/she would have been had the scheme come into force.

Options exercise for persons who opted not to join FPS members prior to 6th April 2006

8. (1) A firefighter who was eligible to join the FPS but did not do so or who elected not to pay pension contributions under Rule G3 of the FPS may elect to join the Scheme from 6th April 2006 or a forward date subject to paragraph 1(1) of Part 2

(2) Where (1) applies and the firefighter has a deferred pension under Rule B5 of the FPS he/she may apply for that benefit to be transferred into the Scheme. The transfer would be in accordance with the guidance and tables for the transfer-in of pensions under Chapter 3 of Part 1 of the Scheme. No transfer value payment will need to be paid – similar to the arrangement for transfers between English Fire and Rescue Authorities under paragraph 11 of Chapter 4 of Part 1.

(3) Where (1) applies and the firefighter elects to join the NFPS it will have effect for membership of this scheme as if the election made under rule G3 of the FPS had been made under paragraph 6 of Part 2 of this Scheme (election to opt out). He/she may elect under paragraph 7 of Part 2 of this scheme to rejoin but if he/she subsequently makes another election under paragraph 6 of Part 2 not to pay pension contributions (opts out), he/she would not be eligible to elect to rejoin under paragraph 7 of Part 2

Eligibility of nominated partner to survivor pensions on or after 6th April.

9. (1) Where a firefighter member of the FPS has nominated a partner under Part 2, Rule 1(2) and (3) in anticipation of the scheme coming into force, and the nomination has been received and accepted by the fire and rescue authority, but has died before that date, the nominated partner shall be entitled to the same benefits that he/she would have been had the scheme come into force, including the death grant under Part 5.

Position of firefighters who were employed by authorities in Northern Ireland, Scotland and Wales before 6th April 2006

10. (1) The FPS is a single scheme; this means that although responsibility has been devolved to the Scottish and Welsh Assemblies, firefighters who are members of the FPS who transfer from employment by fire and rescue authorities in Scotland or Wales are entitled to retain membership of the scheme. This may need to be put beyond doubt by amendment to the FPS Order.

(2) The equivalent Northern Ireland scheme is set out in the Firemen's Pension Scheme Order (Northern Ireland) 2006 (SI of NI 2006 No 210).