

FIREFIGHTERS' PENSION COMMITTEE

AGE DISCRIMINATION

NOTE BY CLG

Issue

1. Members of the Firefighters' Pension Scheme 1992 (FPS) alleging indirect age discrimination because they joined the FPS before age 20 and must pay contributions for more than 30 years, whereas any colleague who joined at age 20 or above would pay contributions for only 30 years before being able to draw their pension at age 50.

The law

2. Counsel has advised CLG that this is not itself discriminatory but that the potential discrimination arises because the additional pension contributions made by such a person are not taken into account for the purposes of the calculation of that member's pension as the maximum period of service which may be taken into account for this purpose is capped at 30 years.
3. However, it is not discriminatory once the person reaches age 50 because he/she has the choice as to whether to retire with a pension or to remain in employment and continue to pay contributions.
4. On the basis of Counsel's advice, we have taken the view that there is no benefit to be gained from resisting the claims since on the probabilities we would lose and that we should find a solution of our choice.

Options

5. We have considered with the Government Actuary's Department the various options, e.g. allowing such members to accrue more than 30 years' pensionable service or paying reduced contributions.
6. Allowing a person to accrue additional pension would be expensive for the Scheme as a significant number of members continue working beyond age 50, and after accruing 30 years' pensionable service and this is taken into account in the valuation of the 1992 Scheme.
7. Alternatively, we could allow members to pay a reduced contribution but our actuarial advice is that all liabilities are accrued once a member reaches 30 years' service and that this includes the effect of future salary increases; therefore it seems to us that it would be difficult to justify any reduced level of contribution if we were challenged on the level of contribution.
7. We have, therefore, reached the conclusion that the most reasonable, and least expensive, option would be to allow such members a contributions holiday from the point at which they reach the 30 years' reckonable service point until age 50. Then the person would be able

to choose between retirement with pension or continued employment and payment of contributions.

8. The employing authority would continue to pay contributions.

Cost to the pension scheme

9. GAD have estimated that since 1st December 2006, when the relevant Employment Directive came into effect, about 350 members are affected and the cost of refunding contributions would be £1.7m. In addition there are about 3,000 members who have the potential to accrue more than 30 years' service before age 50 and the future cost of giving them a contributions holiday would be approx £16.5m.
10. The FPS is now a closed Scheme so that the liability is finite.

Conclusion

11. CLG will take steps to amend Rule G2 of the FPS to provide for members to stop paying contributions when they complete 30 years' reckonable service before age 50 and to recommence payment when they are 50.

The Committee is invited to note.

***Communities and Local Government
March 2010***