

FIREFIGHTERS' PENSION COMMITTEE (FPC)

NOTE ON THE 10th MEETING OF THE FIREFIGHTERS' PENSION COMMITTEE HELD AT ELAND HOUSE, BRESSENDEN PLACE, LONDON ON 10 JANUARY 2006

1. A list of attendees is attached.

2. Introduction

2.1 The Chairman welcomed members to the meeting. He said that this meeting would be used to complete consideration of the Blueprint and review all the amendments that have been agreed to date. He also advised members that future meetings would be used to look at the amendments necessary to the existing scheme and the compensation arrangements.

3. Minutes of the 9th meeting of the FPC

3.1 The minutes of the 9th FPC meeting were agreed. ALAMA advised the Chairman that he intended to submit comments on the GAD meeting that was held on 19 December 2005.

4. Matters Arising from the 9th FPC meeting - FPC(06)1

4.1 The Secretary circulated paper 'Addendum to FPC(06)1'.

4.2 The Chairman introduced paper FPC(06)1. He made reference to the Finance Act 2004 and said that it was ODPM's view that members who leave the pension scheme early cannot be given a 12 month period in which to decide what to do with their accrued service. He said that members would have to make the decision within a reasonable time of their departure from the scheme.

4.3 The Chairman made reference to the Addendum to paper FPC(06)1 and explained that the paper set out the options that a member would have if he was to leave the scheme early. He informed the committee that all members who would qualify for short service benefits would have a choice of 2 options depending on whether a 3 month or 2 year vesting period was opted for.

4.4 The FBU responded by saying that they would want members who had accrued between 3 months and 2 years service to have a choice of the three options, i.e. whether to transfer their rights, accept a deferred pension, or to have a refund of the employee contributions. The FBU also made reference to the Pensions Act 1993 and said that they could see no reason why the option for repayment of contributions was excluded when a firefighter qualifies for short service benefits.

4.5 It was agreed that the FBU would check the legal situation of whether the 3 options could be made available to a member who had qualified for short service benefits and that if they could not be offered repayment of their

contributions the FBU would advise the Chairman whether they wanted a 3 month or 2 year vesting period.

ACTION: FBU to check the legal situation on whether a member who had qualified for short service benefits could be given the option of repayment of his contributions. If this option cannot be given to members who qualify then the FBU will advise the Chairman of whether they want a 3 month or 2 year vesting period.

5 The Draft Blueprint - FPC(06)2

- 5.1 *A3 - Application of Scheme* - It was noted that a reference to 'unregistered civil partners' needs to be included in the provision.
- 5.2 *A5 - Restriction on application of scheme on health grounds* - The Chairman advised members that he was not convinced of the benefits of applying a restriction to entry of the scheme on health grounds and it was agreed to delete Rule A5. Other references to A5 would need to be deleted and subsequent paragraphs in Part A would need to be renumbered.
- 5.3 ALAMA suggested that the decision not to apply any restrictions should be reviewed in the future in order to assess if any problems had arisen. The FBU disagreed with this and took the view that applying restrictions could possibly be in breach of the Disability Discrimination Act.
- 5.4 *B3 - Payment of pension before normal pension age at employer's request - approved early retirement* - The FBU repeated their request for B3 to be conditional on the member agreeing to early retirement. The Chairman explained that it was important to make a distinction between conditions of service and contracts which would determine whether a firefighter could be retired early and access to the pension scheme. B3 would permit payment of a pension if a member was approved for early retirement. He noted the FBU's concerns and agreed to provide guidance for FRAs on the provision's intentions.

ACTION: ODPM to provide guidance on the intentions of B3.

- 5.5 *B4 - Ill-Health Award* - The FBU advised the Chairman that this provision was linked to Rule A13 and requested that B4 reflect 'duty of role'. The Chairman agreed to amend the provision accordingly.
- 5.6 *B5 - Deferred Pension* - It was agreed to remove all references to Rule A5. Some rearrangement of the provisions was required to group B5 with B2 and 3.
- 5.7 *B6 - Cancellation of Deferred Pension* - It was agreed to amend the provision so that the member could decide at the end of service on whether the deferred award should be cancelled.
- 5.8 *B10 - Commutation* - The Chairman said that ODPM were currently involved in discussions with HM Treasury regarding the commutation factors of £12 to £1. He said that these factors would be subject to the outcome of these discussions. The FRS was not being treated differently to other public services.

- 5.9 *B12 - Allocation* - It was agreed at the request of the FBU to retain B12 in the pension scheme. The Committee noted that a member may not be able to allocate to someone who is already a beneficiary under the scheme and that this would depend on advice from HM Revenue and Customs.
- 5.10 *B13 - Limitation of allocated portion of pension* - The Chairman informed the Committee that ODPM was waiting for final clarification from HM Revenue and Customs regarding the new tax rules. It was also noted that the reference to B9 was incorrect and should be amended to B12.
- 5.11 *C6 - Child's Pension Limitations* - The FBU made reference to the requirement that payment would be made if the child was substantially dependent on the scheme member at the scheme member's death and requested that it should be written in accordance with the Finance Act. The Chairman explained that when C6 was drafted it reflected what was permitted in the Finance Act at that time. He agreed to check the provision to ensure that it accurately reflects the requirements of the Finance Act.

ACTION: ODPM to check that C6 accurately reflects the Finance Act.

- 5.12 *D1 - Death Grant* - The Chairman explained that D1 had been written so as to make it as equitable as possible. D1 will recognise that if a member steps down, for whatever reason, or reduces their hours and subsequently dies, the death grant would reflect the earnings throughout his career and not just be based on earnings at the time of death. He said that whilst the formula may seem complex, it was equitable and in the best interests of the member.
- 5.13 The FBU said they were happy that the formula worked and were content with this provision.
- 5.14 *D2 - Guaranteed Payment of Pension* - It was explained that this provision would provide a guarantee payment of five years of a member's pension. It was agreed that this payment would be calculated by totalling 5 years of a member's basic rate of pension, at the point of retirement, and deducting the proportion of pension that had already been paid to the member prior to their death. The balance would then have pension increase applied to it.
- 5.15 The Chairman agreed ODPM would provide guidance on this and would include a formula in the Rule.

ACTION: ODPM to include the formula for calculating the guaranteed payment of pension in D2.

- 5.16 It was also agreed that rule D2 should also apply to a pension credit member whose pension is in payment.
- 5.17 *E5 - Maternity, Paternity and Adoption Leave* - The FBU provided the Chairman with a copy of the European Court Judgement on the treatment of 'paid' and 'unpaid' maternity leave (please refer to action point in paragraph 4.4 of the minutes of the 9th meeting). The Chairman advised the FBU that ODPM would consider the paper and come back to the Committee with conclusions.

ACTION: ODPM to consider the European Court judgement on treatment of 'paid' and 'unpaid' maternity leave.

- 5.18 *G1 - Pensionable Pay* - There was discussion regarding the Flexible Duty Allowance (FDA) and whether it should be treated as pensionable. The Chairman advised members that ODPM were still in discussions with the Local Government Employers Organisation and would advise the Committee on the outcome.
- 5.19 The FBU gave assurances that they would submit a paper commenting on retained members and pensionable pay within the next 2 weeks.
- 5.20 *G7 - Payment of periodical contributions for increased benefits* - The FBU highlighted their concern about the inclusion of the reference to a FRA requiring a member to retire without his/her consent. It was agreed that this paragraph needed to be consistent with B3.
- 5.21 *H1 - Determination by Fire and Rescue Authority* - ALAMA highlighted their concern that IQMPs would be required to give an opinion on non-medical matters. The Chairman explained that the reference was to "issues wholly or partly of a medical nature" and enabled an IQMP, who was required to have OH qualifications, to take a broader view of the person's capabilities including fitness to carry out alternative occupations etc.
- 5.22 *H2 - Appeal against opinion on medical issues* - After discussion it was agreed to delete the 1st paragraph of the provision.
- 5.23 The FBU made reference to the 3rd bullet point and highlighted their concern that including a deadline of 28 days after the notification to appeal was not sufficient. They explained that it can take many weeks to obtain a consultant's report and that enforcing this deadline could prohibit the board of medical referees from considering important evidence. The Chairman recognised this and agreed to delete the 3rd bullet point from the provision.
- 5.24 It was agreed that all evidence, from both the FRA and appellant, should be submitted to the board of medical referees 28 days prior to the hearing date. The Chairman said that schedule 9 would need to be amended to reflect this.
- 5.25 The FOA suggested that the pension scheme should have a mechanism for a review of a decision made under Rule H1 when additional evidence becomes available and before the expense of a medical appeal board was incurred. The Chairman responded by saying that in his view H2 does not prevent the FRA from reconsidering their H1 decision if the appellant submits fresh information and that if necessary the FRA can refer the case back to the IQMP.
- 5.26 However, the Chairman said that even though reconsideration of a Rule H1 decision is not prevented by the existing provision, specific provision should be included, similar to that in the Police Pension Scheme, to allow for reference back to the IQMP.
- 5.27 *K1 - Review and Cancellation of Ill-Health Pensions* - The FOA suggested that consideration should be given to including a time limit for reviewing a

member's ill-health pension. It was agreed to limit reviews to a 10 year period, or normal pension age, whichever was the earlier.

- 5.28 *L5 - Payment of Awards* - The Chairman advised members that there were some outstanding points in Rule L5 relating to the Finance Act that needed to be resolved.
- 5.29 *L7 - Payment of Awards - supplementary* - The Chairman advised members that the heading of this provision should be amended to '*Payment of Awards - supplementary (1)*'.
- 5.30 *L8 - Payment without probate* - The Chairman advised members that the heading of this provision should be amended to '*Payment of Awards - supplementary (2)*'.
- 5.31 *L9 - Stakeholder Pensions* - The Chairman advised members that the first line of this provision should be amended to '*Stakeholder Pensions or Group Personal Pensions*'.
- 5.32 *M4 - Death Grants where pension credit member dies before pension credit benefit becomes payable* - It was agreed that reference to D2 would be included in this provision.
- 5.33 *N - Glossary of Expressions* -

Nominated Partner - it was noted that reference to unregistered civil partners needed to be inserted into this definition.

Firefighter - After discussion it was agreed that the definition of retained duty system firefighter should be amended to:-

'Retained Duty System Firefighter - which shall have the following meaning:

*"A member of a FRA who -
is appointed on terms under which he/she is, or may be, required to engage in fire fighting or, without a break in continuity of such an appointment, may be required to perform other duties as appropriate to his role as a firefighter (other than, or in addition to, engaging in fire fighting) and whose appointment is not a temporary one,*

and who is obliged to attend

(i) at the station to which he/she is attached at such time as the officer in charge of the station considers necessary; and

(ii) at any other station in accordance with any orders he/she receives.'

Any Other Business

- 5.34 There were no other items of business.
- 5.35 The Chairman concluded by saying that his team would amend the draft Blueprint in accordance with the discussions at the meeting and that this final version would be submitted to lawyers with instructions to draft the first

version of the statutory instrument. He explained that the next meeting would concentrate on the proposed amendments for April 2006 to the existing scheme and would include the lawyer's instructions to extract the injury benefits from the existing scheme in the first step towards forming a separate compensation scheme.

Dates of Next Meetings

- 13 February 2006
- 10 March 2006
- 12 April 2006
- 17 May 2006

***ODPM
January 2006***

10th Meeting of the Firefighters' Pension Committee

Attendees

Martin Hill(Chairman)	ODPM
Andy Boorman	ODPM
Jean Archer	ODPM
Maggie Smith	ODPM
Anthony Mooney (Secretary)	ODPM
Eunice Heaney	ODPM (Consultant)
Jim Preston	SPPA
Karen Bradley	Scottish Executive
Bertie Kennedy	DHSSPSNI
Ken Gibson	NIFB
Fred Walker	LGA
Ray Jennings	LGA
Dennis Musgrave	LGA
Paul Woolstenholmes	FBU
Thomas Mitchell	FBU
Doug Christie	FBU (Thompson's Solicitors)
Will Davies	ALAMA
Derek Chadbon	RFU
Ian Hayton	CFOA
Glyn Morgan	FOA
Chris Large	APFO

Apologies

Matt Wrack	FBU
Ivan Walker	FBU (Thompson's Solicitors)
Des Prichard	APFO
Ken Thompson	Cosla