

## **FIREFIGHTERS PENSION COMMITTEE (FPC)**

### **NOTE OF THE 11<sup>TH</sup> MEETING OF THE FIREFIGHTERS' PENSION COMMITTEE HELD AT ELAND HOUSE, BRESSENDEN PLACE VICTORIA ON 13<sup>TH</sup> FEBRUARY 2006.**

#### **Introduction and Apologies for absence**

Apologies were received from Anthony Mooney (Secretary) and Ivan Walker (Thompsons solicitors – FBU) and the Committee sent its best wishes to both of them. A list of attendees is attached.

The Chairman advised that Ministers had been taking a close interest in Pensions matters and were having ongoing discussions with stakeholders. The outcome of the talks was not yet known and it would be premature to comment on them.

#### **ITEM 1 Minutes of the last meeting**

- 1.1 Will Davies (ALAMA) had submitted some comments on the minutes late on the 10<sup>th</sup> February. These were noted. A revised version of his note would be circulated with the minutes of this meeting. Chris Large considered that the entry at 5.33 – Glossary of expressions - for a Retained Duty System Firefighter was too bland as this could apply to anyone. The key point was thought to be the obligation to attend.

#### **ITEM 2 Matters arising (FPC (06)3)**

- 2.1 Qualifying period for New Firefighters' Pension Scheme (NFPS)  
The FBU had been asked to consider whether they wished the vesting period in the NFPS to be 3 months or 2 years. A period of 3 months was agreed.
- 2.2 Treatment of unpaid maternity leave.  
ODPM had considered the European Court Judgement in the case of Land Brandenburg (appellants) v SASS (respondent) on the treatment of paid and unpaid maternity leave and did not see any impact on what had been proposed. The FBU disagreed and said that there were health and safety risks for members returning early that would not apply in other schemes. The Chairman said that ODPM could not accept this view and FRAs should make reasonable adjustments. The FBU were invited to submit a paper outlining their concerns and how they considered the judgement should apply.

**Action: FBU to submit paper to ODPM outlining concerns and how the judgement might apply. \_**

#### **ITEM 3 The draft Blueprint (FPC (06)4)**

- 3.1 The draft Blueprint had been sent to lawyers as a basis for drafting the Orders. If there were continuing problems these could be discussed but there would be

further opportunities for discussion of the detail once the Orders were drafted. It was noted that the Scheme Order would not be made by April when the existing scheme would close but would be retrospective. Lawyers were satisfied that this could be done as this had applied when the 1972 Order was not made until 1973.

#### **ITEM 4 Transitional Arrangements (FPC (06)5)**

- 4.1 The paper set out the proposals on how to deal with the arrangements for new and existing members who may join or transfer to the NFPS and the options available.
- 4.2 The FBU said that individuals could not join something that did not exist and that there was no legal basis for collecting contributions for a new scheme until the Scheme Order had been made. New entrants should therefore remain in the existing scheme until the Scheme Order was made. If there was a gap there would be difficulties receiving benefits for those injured and forced to retire or for dependants of those that died during that period as there would be no statutory basis for their award.
- 4.3 ODPM stated that it was their intention that any such individuals would be covered as the Order would be retrospective. Unless they chose to opt out their membership would be backdated. Contributions would either be collected when the Order was made i.e. lump sum for past period or firefighters could set aside the sum prior to that date. Treasury approval and planning had been based on a commencement date of 2006 and Ministers would be reluctant for this to slip since savings would then have to be made by other means. Guidance would be given to FRAs.
- 4.4 The LGA advised that budgets had been set based on the new arrangements for funding and a start date of the NFPS of April 2006. It was too late to stop this process now.
- 4.5 The FBU noted that the Blueprint had not included a contribution rate and questioned how this could have been used in budget setting. The LGA representatives confirmed that the parameters suggested some time ago had been used. The FRA would not be responsible for pensions payments from 6 April under the new financing arrangements as ODPM would top up the proposed Pension Funds if there was a shortfall between outgoings and receipts from contributions.
- 4.6 The Chairman noted that Ministers had now stated that the total cost of the new scheme had to be within 22%. The employee's contribution to the new scheme would be 8½ %, with employers paying the balance of approximately 13½ %.
- 4.7 The FBU noted their concerns and opposition to the proposal that a member would be asked to join a scheme that was not on the statute. This view was endorsed by FOA. There had been direct experience of auditors intervening to

prevent payments being made and there was no guarantee that the proposed arrangements would not lead to such difficulties in the future.

- 4.8 The RFU asked that an options exercise be conducted earlier for RDS members who would wish to join the scheme in April 2006 even if membership had then to be confirmed at a later date when full information on their personal circumstances was known.
- 4.9 ODPM considered it more appropriate to allow 6 months for the provision of information to enable an options exercise to run from October to December. RDS members would not be transferring existing pension. ODPM would discuss with the LGA how they wished to handle this. In the meantime the Practitioners Group and the Communications Group established by ODPM to assist the NFPS related work were firmly focused on taking this work forward. A circular would be issued advising that, unless optants out rejoin before 6 April, they would rejoin the new scheme. For those on career breaks their position would depend on whether they were on unpaid leave or had terminated their employment.

**Action: ODPM to consult LGA re handling prior to the Scheme Order being made.  
ODPM to issue circular re optants out position.**

- 4.10 The FBU asked whether transfers from the FPS to the NFPS would be on “Club terms” and were advised that they would be scheme specific. GAD would look at the value of both schemes. It was probably more generous than “Club Terms” and would affect the transfer value. There were a number of factors to consider e.g. the ability to reach double accrual in the current scheme, payments for unmarried partners, death grant arrangements etc.
- 4.11 The FBU raised concerns about the application of 30 hours regular work to RDS under the two tier ill health retirement proposals. Where an RDS firefighter may not be able to undertake their primary employment but was being told by the FRA that they could undertake regular work, they thought that the firefighter should be automatically entitled to an upper tier award.
- 4.12 ODPM stated that the determining factor was whether or not they were able to undertake regular work. The FBU noted the position.

#### **ITEM 5 Retained Duty System (RDS) – Pensionable pay (FPC (06)6)**

- 5.1 This paper set out the proposed approach to pensionable pay for RDS firefighters. There was an error in paragraph 2: it is intended that temporary promotion should be pensionable.
- 5.2 The FBU questioned the view expressed in paragraph 5 regarding Grey Book payments. RDS firefighters in service before 2003 had pay protection for loss of earnings and rank to role. They also expressed concern that compensation payments paid when an RDS firefighter was at an incident would not be covered.

- 5.3 The Chairman said that it was not for the FPS to compensate for loss of earnings/pension in other employment. There were other more appropriate means for doing this, although there might be a case for negotiating with the Employers for improved compensation arrangements if these were not regarded as adequate. The distinction to be made was that compensation was for loss of earnings, the pension for work activity. The FBU disagreed with this position. It was confirmed that all holiday pay would be pensionable.
- 5.4 Day Crewing created a problem because those with a day crewing contract had a single contract covering both regular and RDS activities. It was envisaged that when the NFPS came into operation loss of earnings capacity for any day crewing firefighter would be calculated on regular and retained pay.
- 5.5 The FBU sought clarification of the injury benefits for an RDS employee joining after April 2006 who opts out of the pension scheme. It was confirmed that the award would be pro-rated in the same way as a part time regular firefighter. The FBU expressed concern at the movement away from whole-time comparison and considered this a major financial disincentive for people to join the FRS. They considered that the indirect costs had not been taken into account and asked for this to be reconsidered.
- 5.6 ODPM said that RDS were no different from other part time regulars who may have second jobs and re-iterated the view that the FPS/NFPS cannot compensate for other employment. Equal treatment meant that RDS treatment could not be better than treatment of regular, wholetime and part-time, employees. If there was a retention issue this was a matter for pay negotiations not the pension scheme.
- 5.7 The RFU expressed concerns about the ability of the pay and pension systems to be able to record RDS details ready for April 2006 and was advised that Heywoods who provided the software for almost all the FRAs did not consider it a problem.

#### **ITEM 6 Amendments to the FPS – Instructions (FPC (06)7)**

- 6.1 The paper had been circulated for information as the contents had been seen before.
- 6.2 The FBU raised concerns about the ill health retirement provisions; the absence of provision to cover the assault provisions at Section 9.12 of the Grey Book; the change to the definition of cohabitants for Grey Book death benefits – previous entitlement had been absolute, now some members might lose out; and payment for death and injury on travel.
- 6.3 ODPM explained that there were different ways of calculating enhancements and the existing arrangements for members of the FPS would be unchanged. Indemnification against risk of assaults had not been considered to be ultra-vires and ODPM had never been asked to consider the need to place Section 9.12 on a statutory basis. The Treasury required cohabitants to be clearly

defined and consistency between the NFPS and the Compensation Scheme was required; FRAs would have a discretion if a survivor did not meet the conditions. It must be recognised that the death benefits were considered generous and ODPM had to be able to defend the level of benefits proposed. The availability of a discretion was as much as was likely to be possible. Guidance would cover this.

- 6.4 The FBU were glad that there was discretion but sought consistency and a return to previous arrangements. They expressed concern about the lack of consultation. ODPM advised that there had been full consultation on this when a draft order had first been prepared in 2000. The Committee had also discussed the issue of unmarried partners at length in consideration of the Blueprint and discretion had been provided.
- 6.5 The question of travelling to and from work was raised as the Grey Book included both journeys. There were links with what was classed as on duty in the FPS/injury awards where such travel was not included. The exclusion of return travel complied with HMRC rules. FBU and RFU were dissatisfied with this position and ODPM agreed to come back separately on this matter.

**Action: ODPM to provide further information with regards compensation for accidents on travelling.**

#### **ITEM 7 Any Other Business**

No other business was raised.

#### **ITEM 8 Dates of next meetings**

The date of the next meeting was confirmed as 10 March, 2006.

Further meetings have been arranged for 12 April and 17 May.

ODPM  
February 2006

## 11<sup>th</sup> Meeting of the Firefighters' Pension Committee

### Attendees

Martin Hill	ODPM (Chair)
Andy Boorman	ODPM
Jean Archer	ODPM
Maggie Smith	ODPM (Secretary)
Eunice Heaney	ODPM (Consultant)
Jim Preston	SPPA
Karen Bradley	Scottish Executive
Bertie Kennedy	DHSSPSNI
Terry McGonigal	DHSSPSNI
Fred Walker	LGA
Ray Jennings	LGA
Dennis Musgrave	LGA
Matt Wrack	FBU
Paul Woolstenholmes	FBU
Andy Dark	FBU
Thomas Mitchell	FBU
Doug Christie	Thompsons solicitors (FBU)
Derek Chadbon	RFU
Ian Hayton	CFOA
Glyn Morgan	FOA
Chris Large	APFO
Will Davies	ALAMA

### Apologies

Anthony Mooney	ODPM
Nitin Bhayani	ODPM
Ivan Walker	Thompsons (FBU)
Des Pritchard	APFO
Ken Thompson	COSSLA
Jason Pollard	Welsh Assembly