

## Potential additional pension liabilities associated with new duty systems

### Background

Firefighter Pension Committee members may be aware that a number of fire services have introduced or are looking to introduce a form of day crewing plus duty system. The features that these duty systems have in common are (a) an extended period of on-call duty time to be spent in provided accommodation or at the station and (b) a substantial increase in pay.

The Fire Brigades Union has raised concerns about day crewing plus duty systems on several fronts relating to the Working Time Directive, cuts in frontline staff, health and safety, and welfare issues. The concern for this Committee, however, is the implication for the past service cost of the current and future firefighters' pension schemes. These duty systems have a significant impact on the number of front-line firefighters that the Authority employs and we believe that the primary motivation for offering these duty systems is to cut costs. The savings that the Authority makes, however, are at the expense of the pension schemes.

By way of example, it is known that FRSs propose duty systems which go under different guises but share many similarities, for illustration such a system might be called "Duty System X" or DSX. Firefighters who work a DSX duty system receive a pay increase of 29%. Amongst the target audiences that the DSX duty system is aimed at are firefighters who are nearing retirement.

Material produced by FRSs specifically target older firefighters near retirement seeking their agreement to work DSX in order to boost their pension.

### Effect on the FPS and NFPS

The FBU has asked First Actuarial to calculate the cost of this using an additional allowance of 29%. We asked them to use, as examples, a firefighter, a crew manager and a watch manager in the FPS who switch to the DSX duty system in their last three years, and retire at age 50. The costs and benefits are substantial:

- A firefighter who switches to the DSX Duty System will get an extra £4,089 pension per year and an additional £30,530 lump sum, at a cost to the Scheme of £119,253
- A crew manager who switches to the DSX Duty System will get an extra £4,533 pension per year and an additional £33,847 lump sum, at a cost to the Scheme of £132,184
- A watch manager who switches to the DSX Duty System will get an extra £4,760 pension per year and an additional £35,541 lump sum, at a cost to the Scheme of £138,797

These strain costs to the Scheme are net of the additional contributions that the member and “the FRS” will pay. A copy of First Actuarial’s calculations have been provided to DCLG and are based upon an actual proposal which involves a 29% additional allowance and a reduction in firefighters at each location.

The FRS which wishes to introduce DSX makes a saving for each firefighter who switches to the DSX Duty System, if the result is that overall firefighter numbers are reduced. Their intention is to reduce the number of firefighters at each station that works this duty system by half, meaning that they save approximately £12,243 for each DSX firefighter, £13,462 for each DSX Crew Manager and £14,136 for each DSX Watch Manager who replaces two firefighters working the shift duty system.

Different Authorities have proposed different duty systems and different pay packages. Of the cases that the FBU knows of, the increase in basic pay that has been offered varies from around 20% to 29%.

This problem has been known since at least May 2009. As Paper FPC(09)4 said:

*It is clear that the situation is becoming more confused as FRAs respond to the need for changes to meet new operational demands; and, from time to time, introduce new allowances and decide that they should be pensionable. The reasons for making such a decision are not clear. It may be that the FRA is seeking to make an allowance more attractive or provide an incentive for those who wish to apply, or qualify, for it.*

*Because the FPS and NFPS are unfunded schemes, additional costs for the past cost have to be met by the pension fund account and will either be paid from the top-up grant and/or by future contributions.*

Since then, the High Court has clarified that a decision to designate an element of pay as pensionable or non-pensionable is beside the point. It is the nature of the payment and not what the parties agree that matters. An addition to basic pay is pensionable whatever the Authority and its workforce intend.

The discussion that followed from the paper referred to above led to proposals set out in the DCLG consultation paper published in August 2011, and the draft regulations which were attached to the consultation paper which have never been laid before Parliament.

### **Who pays?**

These authorities are not concerned about the strain that they are putting on the pension schemes because they do not have to pay for it. It could be argued that they are using the schemes as a convenient way to fund the savings that they want to make. At the very least, it is clear that they have not paid due regard to the pension cost of the proposed duty systems because they think it is not their concern.

Until the next valuation, the pension cost will be met by the top-up grant. The DCLG’s proposed heads of agreement say nothing about the funding of the pension arrangements for firefighters going forward from April 2015 at all.

The FPC discussed “cap and share” arrangements in 2010. The FBU did not agree that they were appropriate then and we don’t think they are now. In any event, the incoming coalition Government removed cap and share from the agenda in all public service pension schemes following the interim Hutton Report.

Under the arrangements that were suggested in 2010, some financial pressures on the scheme were not within the cap and share regime at all. That was envisaged in the DCLG paper concerning cap and share in the fire service (see paper FPC (10)4, paragraph 10).

The FBU Executive Council has discussed its real concerns around additional liabilities caused by the introduction of schemes such as DSX and we have already informally raised concerns with CLG. We believe that it is unethical to allow a fire service to create situations such as those highlighted in the illustration (which is based on a real example) that have such a significant impact of the future affordability, sustainability and fairness of the firefighter schemes.

The FBU position is absolutely clear: it cannot accept that the introduction of day crewing plus duty systems, without proper thought for the consequences for the pension schemes, should result in any additional burden being placed on the scheme members either through a reduction in benefits or an increase in employee contributions.

### **Recommendation**

DCLG must investigate as a matter of urgency whether the day crewing plus duty systems that have been proposed are lawful if they have a foreseeable and intentional impact on the funding of the pension schemes.

An authority cannot be allowed to simply disregard the impact of its actions in situations such as those described in this paper and must be held responsible for the additional burden placed on the schemes.



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