

## **FIREFIGHTERS' PENSION COMMITTEE**

### **NOTE OF THE 23<sup>rd</sup> MEETING OF THE FIREFIGHTERS' PENSION COMMITTEE HELD ON 20<sup>th</sup> JUNE AT ELAND HOUSE, BRESSENDEN PLACE, LONDON**

(A list of the attendees are attached in Annex A)

#### **1. Introduction**

- 1.1 The Chairman welcomed everyone to the meeting. He introduced David Hughes of the Government Actuary's Department and Mick Shaw of the FBU.

#### **2. Minutes of the 22<sup>nd</sup> FPC meeting**

- 2.1 The minutes of the 22<sup>nd</sup> FPC meeting were agreed.

#### **3. Matters arising from the 22<sup>nd</sup> FPC meeting - FPC(07)7**

- 3.1 The Chairman introduced committee paper FPC(07)7 which picked up on outstanding action points from the last meeting.

##### NFPS Order

- 3.2 The Chairman advised members that the corrected version of the Firefighters' Pension Scheme (England) Order 2006 was now available on the website of the Office of Public Sector Information.

##### Ill-Health related issues

- 3.3 The Chairman confirmed that he and Ian Hayton of CFOA had spoken to members of the CFOA Task and Finish Group, however, there was no further progress to report at the moment.
- 3.4 Derek Chadbon of the RFU highlighted his concern at the lack of progress in finding a solution to these issues. He informed the Committee that there were current cases of retained firefighters who had been injured on duty and were being dismissed from the Fire Service on capability grounds. He also said that in some of these cases the firefighter had also lost their primary employment as a result of the injuries received. He suggested that this could have an adverse impact on recruitment and retention of retained firefighters as many cannot expect the benefits on offer when they were initially recruited. The Chairman responded that the position for retained firefighters had only changed to the extent that they are now being treated as part-time firefighters. The right to receive an injury award in cases where they suffer a qualifying injury has been maintained and the criteria did not differ from those for a regular firefighter.
- 3.5 Derek Chadbon suggested that there were no redeployment opportunities for retained firefighters who were injured on duty but did

not satisfy ill-health/injury requirements and emphasised the need to find a solution.

- 3.6 Ian Hayton of CFOA said that whilst it may be more difficult for retained firefighters, the principle of redeployment still applies. He identified the issue as being whether those firefighters who are injured on duty and who do not satisfy the ill-health/injury requirements should be compensated and whether the FPC was the appropriate venue to discuss the issue. The Chairman said that as if it was not a pension or injury compensation issue the FPC was probably not the appropriate venue to discuss solutions. He said that it was reasonable for the CFOA Task and Finish Group along with the employer organisations to identify what the problems are and to consider options. He said that section 34 of the Fire Services Act 2004 might give authority for statutory arrangements to be made.
- 3.7 Ian Hayton of CFOA offered to draft an Options paper which could be discussed between the employer and employee representatives.

**ACTION:** LGA/CFOA to identify any issues and bring forward proposals for consideration by the Committee

- 3.8 Will Davies of ALAMA made reference to the definition of regular firefighter. He said that there had been a change in the interpretation of the definition and asked whether there had been any challenge to this.
- 3.9 The Chairman said that he was not aware of any challenge and reaffirmed that any guidance issued represented DCLG's view of the legislation and not statutory guidance. Any interpretation of the scheme regulations was for the Courts.

### Transferring

- 3.12 David Hughes confirmed that GAD were continuing to work on the outstanding factor tables and guidance and would provide them to DCLG as soon as possible.

### Guidance on Injury Awards

- 3.13 The Chairman raised the issue of DCLG's guidance on the interaction of DWP benefits with Injury awards. He reminded members that an ex-firefighter had made a complaint against DCLG about the absence of advice on how DWP benefits should be deducted from injury awards. The Chairman asked committee members whether they had any issues with the relevant part of the Commentary on the DCLG website.
- 3.14 No issues were raised and the Chairman confirmed with members that they were content with the guidance.

### Split Pensions

- 3.15 DCLG is currently preparing the instructions for lawyers.

## Guidance for IQMPs

- 3.16 The Chairman confirmed that he had received comments from all the representative organisations of the FPC. He said that DCLG were currently revising the guidance in response to the comments. He expects to issue the revised guidance in August/September prior to the next meeting of the FPC. The final draft would be circulated to members first.

### **4. Options Exercise – Outcome – FPC(07)8**

- 4.1 The Chairman introduced committee paper FPC(07)8 which provided data on the outcome of the Options exercise. He said that that data showed that 101 firefighters had transferred from the FPS to the NFPS: this was in line with transfers to the New Police Pension Scheme. Of those 101 transferees, 85% had taken deferred pensions in the FPS. The low numbers could be explained by the application of a 45/60<sup>th</sup> cap on pensionable pay. The statistics also show that 30% of the pre 6<sup>th</sup> April 2006 retained firefighters had opted to join the NFPS whereas 85% of newly recruited retained firefighters had joined the NFPS. The Chairman pointed out that there had been an obvious increase in the take up rates amongst retained firefighters in cases where an FRA had visited stations and given presentations on the NFPS. The Chairman suggested that it might be helpful for the employee representatives to consider re-emphasising the benefits of NFPS to its members.
- 4.2 Tam Mitchell of FBU asked whether any of the FRAs had failed to issue the Options exercise paperwork on time. The Chairman confirmed that all paperwork had been issued on time, although not as promptly as advised.

### **5. NFPS: Further amendments – FPC(07)9**

- 5.1 The Chairman introduced committee paper FPC(07)9 which identified further amendments that needed to be made to the NFPS Order. He said that in addition to those that had been identified previously in committee paper FPC(07)2, which were mainly errors in layout, numbering and typography, there were some further problems identified. He invited members to comment by 4<sup>th</sup> July.

**ACTION:** FPC members to comment on committee paper FPC(07)9 by 4<sup>th</sup> July.

- 5.2 The Chairman advised members that when the issue of CPD was resolved, DCLG would prepare a draft amendment order which will be circulated to the FPC for comments.

**ACTION:** DCLG to prepare a draft order containing amendments to the NFPS Order

## 6. CPD and LSI: pensionability - FPC(07)10

### CPD Payments

- 6.1 The Chairman said that the main problem with accepting CPD payments as pensionable was their temporary nature and therefore there was a real danger of members paying pension contributions on the allowance throughout their career and having it withdrawn within the last three years prior to retirement. In these cases the member would lose out as the allowance would not be reflected in their pension. However, Ministers have agreed for the total employee and employer contributions relating to CPD payments to purchase an Additional Pension Benefit (APB). At the end of each year that the firefighter receives a CPD payment the APB would be calculated and would sit in a separate account with pension increases applied up to the date of payment on the member's 65<sup>th</sup> birthday. He said that HM Treasury had required DCLG to calculate the APB in this way because Additional Voluntary Contributions (AVCs) in public sector pensions were changing from the purchase of service to the purchase of pension.
- 6.2 Matt Wrack of FBU said that whilst he welcomed DCLG's acceptance that CPD payments would be pensionable, he did have issue with how the associated APB was calculated as it was very different to how a final salary pension was calculated. He continued by saying that he also had an issue with the actuarial reduction of the APB where it comes into payment before the member's 65<sup>th</sup> birthday.
- 6.3 David Hughes of GAD said that the APB associated with CPD payments would be calculated on the assumption that they would come into payment at a future date. In accordance with normal actuarial practice, the future date for FPS members would be deferred pension age (60) and for NFPS members normal benefit age (65). The actuarial reduction of the APB in cases where it was paid early was to take account of the fact that the date of the valuation had been moved forward.
- 6.4 Following discussion it was agreed that it would be more appropriate for the APB associated with CPD payments to be valued at normal pension age (55) for FPS members reach 55 years of age and normal retirement age (60) for NFPS members, as this would give greater clarity for members.
- 6.5 Ivan Walker of Thompson's asked whether the APB associated with CPD payments would be paid early if the member is ill-health retired. The Chairman confirmed that the APB would be paid early in cases where the member is ill-health retired and said that whilst the APB would not be actuarially reduced in these circumstances, there could be no forecast of its future value.

### LSI Payments

- 6.6 The Chairman said that the LGE had asked DCLG to make clear that they had not raised the issue concerning pension contributions paid on the Long Service Increment (LSI) and that the Department were

responding to representation from the FBU. Ministers had agreed to find a solution to this issue through the pension scheme and there had been discussions with the FBU and LGE.

- 6.7 Matt Wrack of FBU said that he had concerns that the pension contributions that some members had paid on their LSI would not be reflected fully in their pension. Whilst the recent increases in final salary would mean that most members would be no worse off, final salaries would have been greater had LSI payments continued. The Chairman responded by suggesting that those firefighters who were in receipt of LSI or who would have started receiving LSI payments during the phasing out period i.e. 1<sup>st</sup> October 2006 and 30<sup>th</sup> September 2007 could be split into 2 groups i.e. the first group including those who have retired or are due to retire during the phasing out period and the second group being those who are not due to retire until after the phasing out period. Those firefighters who have retired or are due to retire during the phasing out period could be given protection to their pensionable pay so that if they had been in receipt of the LSI for at least one year prior to their retirement they would have the full LSI payment i.e. £990 credited to their pensionable pay. For those firefighters who were in receipt of the LSI for less than one year prior to their retirement would have the pro-rated amount credited to their pensionable pay. The Chairman also proposed to give protection to the second group of firefighters who are not due to retire until after the phasing out period by giving them an additional benefit for each year that they were in receipt of LSI (i.e. for each year that they received the LSI they would receive an additional pension benefit). This additional pension benefit would have pension increases applied to it up to the date of the member's retirement.
- 6.8 Matt Wrack of FBU said that in order to get a full appreciation of the value of the proposals on offer they would be sending specimen scenarios to DCLG so that GAD could provide worked examples on the associated additional pension in regards to CPD and additional service in regards to LSI.
- 6.9 Matt Wrack also said that it was imperative to sight the table of factors in order to appreciate the true value of the proposals. The Chairman responded by saying that it was essential to separate out the issues of principle and the issues of detail. If the principles of the proposals can be agreed then the necessary amendments to the FPS and NFPS can be progressed whilst any outstanding issues about the detail are resolved.
- 6.10 Matt Wrack confirmed that the FBU would give a written response regarding the proposals after they have received and considered the worked examples from GAD. Glyn Morgan of FOA said that he would also like the opportunity to comment once the worked examples were available.
- 6.11 Ivan Walker of Thompson's asked whether the factor tables would be gender neutral. David Hughes said that GAD was still considering whether to use gender neutral factors. The Chairman said that DCLG would prefer the factors to be gender neutral.

- 6.12 The Chairman concluded discussions on this issue by emphasising that the proposals to solve the CPD and LSI issue was a one-off solution and that he did not expect the NJC to make any similar agreements in the future. He invited members to comment on committee paper FPC(07)10 by 4<sup>th</sup> July.

**ACTION:** FPC members invited to comment on paper FPC(07)10 by 4<sup>th</sup> July.

## 7. Secondary Contracts

- 7.1 Matt Wrack of FBU said that the use of secondary contracts within FRAs was becoming a growing issue. He said that the issue was not as simple as a regular firefighter having a secondary contract as a retained firefighter and said that some secondary employments would not satisfy the eligibility criteria for the FPS/NFPS. He continued by saying that the use of secondary contracts was creating implications for death and injury compensation and suggested that FRAs were not advising members of the full risks associated with accepting secondary contracts. He also suggested that some FRAs were advising some members that if injury during their secondary contract had financial implications for their pensions and compensatory awards, any shortfall would be made up. It was FBU's view that such payments would be *ultra vires*. He asked the Chairman for DCLG's view on the issue and whether additional guidance was required.
- 7.2 The Chairman said that it was very difficult to get a handle on what FRAs are offering in terms of secondary/second contracts. He made reference to regular firefighters who have separate retained contracts and said that if they suffered a qualifying injury then the member would get an ill-health pension according to each employment contract, if eligible, and would receive an injury pension and gratuity according to the contract under which they received the injury. The position under Daycrewing contracts, where the member is employed as a whole-time regular firefighter with 7 hours standby and may be required to provide retained duties, was less clear and might depend on whether the firefighter was obliged to turn out for the retained duties or whether they could choose not to. The retained element had not been pensionable before April 2006 and the department were not certain how authorities regarded the retained element of these contracts. It would be helpful if the employers could provide some input into clarifying the details of daycrewing contracts.
- 7.3 Matt Wrack made reference to whole-time regular firefighters who had secondary contracts for other duties involved in Urban Search and Rescue (USAR) and asked the Chairman how DCLG viewed these contracts. The Chairman responded that the only firefighters that carry out USAR duties that he was aware of have these duties included as part of their primary contract. His understanding was that the Metropolitan FRAs were utilising whole-time regular firefighters who were paid a non pensionable allowance to be available for USAR duties. If these firefighters were injured whilst

carrying out USAR duties then their compensation would be based on their primary contract of employment as a whole-time firefighter.

7.4 Ivan Walker of Thompson's highlighted that some firefighters were being employed on secondary contracts as driver trainers. He said that were these firefighters to be injured during these duties they would not be eligible for an injury award under the Firefighters' Compensation Scheme (FCS). Matt Wrack emphasised his concern that FRAs were not making these implications clear to the firefighters.

7.5 Glyn Morgan of FOA suggested that it would be helpful if DCLG issued guidance outlining the implications of secondary contracts. The Chairman agreed that the Department would issue guidance and would emphasise to FRAs the need to give firefighters clear advice on the potential implications for pensions and injury awards where they to be injured under any second contract. He also agreed to advise FRAs that payments to make good any detriment caused to compensatory awards by receiving injuries during secondary contracts of employment may be *ultra vires*.

**ACTION:** DCLG to advise FRAs about the need to make clear the pension/compensation implications to firefighters who are employed on secondary or second contracts and that any payments to make good any detriment to pension/compensation awards caused by secondary contracts may be *ultra vires*

## **8. Any Other Business**

8.1 There were no other items of other business raised.

## **9. Dates of Future Meetings**

19 September 2007  
20 November 2007  
20 February 2008  
20 May 2008

**DCLG**  
**June 2007**

**Attendees**

Martin Hill (Chairman)	DCLG
Andy Boorman	DCLG
Anthony Mooney (Secretary)	DCLG
David Hughes	GAD
Jim Preston	SPPA
Ray Jennings	LGA
Matt Wrack	FBU
Mick Shaw	FBU
Tam Mitchell	FBU
Dean Mills	FBU
Ivan Walker	Thompson's
Ian Hayton	CFOA
Derek Chadbon	RFU
Chris Large	APFO
Glyn Morgan	FOA
Dr Will Davies	ALAMA

**Apologies**

Fred Walker	LGA
Eunice Heaney	Consultant
Bertie Kennedy	DHSSPSNI
Terry McGonigal	NIFS
Jason Pollard	Welsh Assembly
Julia Letton	Welsh Assembly