

FIREFIGHTERS' PENSION COMMITTEE

NOTE OF THE 35th MEETING OF THE FIREFIGHTERS' PENSION COMMITTEE HELD ON 28th JULY 2010 AT ELAND HOUSE, BRESSENDEN PLACE, LONDON

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

1. Introduction

1.1 The Chairman welcomed everyone to the meeting. He introduced John Enos of CoSLA who had not previously attended the Committee.

2. Note of the 34th FPC meeting

2.1 The note of the 34th FPC meeting was agreed.

3. Matters arising from the 34th FPC meeting –FPC(10)5

3.1 The Chairman introduced paper FPC(10)5 – ‘Matters arising from the 34th FPC meeting’.

Age Discrimination

3.2 The Chairman confirmed that CLG lawyers had been instructed to start drafting the required amendments. Once completed the draft amendment order would be agreed with Ministers prior to being published for wider consultation.

3.3 Ivan Walker of Thompsons asked whether account would be taken of transferred-in service when determining whether a member was eligible for a contributions holiday. The Chairman confirmed that transferred service would count towards a member's pensionable service when determining whether they had accrued 40/60ths prior to their 50th birthday.

Pensionable Pay

3.4 CLG was currently considering the points raised in the discussion at the last meeting and would submit proposed amendments to Ministers. There would be further consultation prior to any amendments being made to the Scheme.

FPS: Options for the future/Cap and Share

3.5 The Chairman explained that the next FPC meeting on the 25th August had been designated specifically to progress the discussion on future

options for the firefighter pension schemes. He confirmed that an official from the Government Actuary's Department (GAD) would be attending. Representative organisations were invited to bring their own actuary.

- 3.6 Ivan Walker of Thompsons asked whether amendment of the FCS was planned. The Chairman said that work on amending the FCS to bring it into line with both the FPS and NFPS had been started but was not a priority at present.
- 3.7 It was noted that the appendix referred to in paragraph 2, page 3 of the Annex to paper FPC(10)5 had been omitted. The Chairman apologised and said that he would circulate the appendix to members.

[Secretary's Note: Committee paper FPC(10)5 was amended to include the omitted appendix and re-issued to members on 29th July]

- 3.8 Des Prichard of APFO made reference to the paragraph entitled 'Actuarial valuation methodology' in the GAD letter of 11th May 2010. He said that he was unable to find any evidence to support GAD's assumption that the longevity for a male firefighter and female firefighter was 89.1 years and 91.1 years respectively, as suggested in the actuarial valuation report. His experience in East Sussex suggested that ex-firefighters died in their 60s and 70s. He said that pensioner longevity had a substantial effect on the future costs of the scheme and was, therefore, significant to any review. The Chairman responded that GAD had based their mortality assumptions on ONS data and had made certain adjustments to reflect scheme specific experience. He confirmed that he would put the question to the actuary who would be able to give a more informative response at the next meeting.

[Secretary's Note: Annex C to the note of the 33rd FPC meeting described the methodology used by GAD for the mortality assumptions – copy attached. Figures provided by East Sussex Fire and Rescue Authority during the valuation exercise show that 7 retired firefighters died in the period 2004/5 to 2006/7: at death, 5 were aged 80 to 85; 1 was aged 64; and 1 was aged 58]

- 3.9 James Dagleish of LGA said that he would be able to access data on the average age at death of pensioners who were former firefighters with the London Fire and Emergency Planning Authority. He would provide this for the next meeting. Des Prichard confirmed that he would also collect similar data with regards to former firefighters employed with the East Sussex Fire and Rescue Service.
- 3.10 Andy Dark of the FBU said that it was inappropriate to ask representative organisations to collect data. He said that this should be the responsibility of CLG and/or GAD. The Chairman said that the APFO representative raised an issue regarding the actuarial assumptions employed by GAD

and that CLG was simply inviting representatives to bring forward any data that they believed was relevant to discussions.

- 3.11 Paul Fuller said that APFO would submit the data and if it justified a challenge to the findings of the actuarial report then GAD should be asked to revisit their actuarial assumptions on firefighter mortality/longevity.
- 3.12 Des Prichard said that it was APFO's view that the GAD review was flawed and was, therefore, challenging its validity. He said that there was no clear evidence to support GAD's assumptions on firefighter longevity and mortality rates. The future cost of the pension schemes was directly affected by the length of time that pensions were paid, this must call into question some of the findings presented in the actuarial valuation report.
- 3.13 Ivan Walker emphasised that there was a need for more up to date data which should be readily available. He said that firefighter pension arrangements had been subject to major reforms since 2006 and it would be essential to assess the impact of these changes between 2007 and 2010 otherwise the discussions would be based on historic, out of date, data. The Chairman accepted that the reforms since 2006 will have had an impact on the schemes and would be reflected in the next actuarial valuation as at 31st March 2011.
- 3.14 Fred Walker of LGA supported the need for more up to date data. The Chairman agreed to consider what further data could be provided for the next meeting.

ACTION: CLG to consider what further data could be provided for the next meeting.

- 3.15 Des Prichard made reference to the 2nd bullet point on page 2 of the GAD letter dated 11th May 2010. He said that it appeared that GAD was over inflating the amount of pension accrued by a member with 25 years pensionable service. He said that GAD had stated these members would have accrued a pension equating to 55.6% of their final salary whereas at this stage they would only have accrued 30/60ths or 50% of their final salary. The Chairman said that the 2nd bullet point illustrates that a member with 25 years' service at 31st March 2011 would, if their service was treated as having been accrued uniformly i.e. at 1.333 years for each year served (45^{ths}) have accrued a pension equal to 55.6% of final salary ($25 \times 1.333 \div 60$ as a %).
- 3.16 Joe Lowe of Cosla questioned the validity of the assumption that firefighters with 25 years' pensionable service would continue to accrue the 30 years' pensionable service. Fred Walker confirmed that there was data to confirm that the majority of firefighters continued in employment to accrue maximum pensionable service.

4. Hutton Commission and related matters – FPC(10)7

- 4.1 The Chairman introduced committee paper FPC(10)7 which set out the Terms of Reference of the Independent Public Service Pensions Commission which was being chaired by Lord Hutton. He invited general discussion regarding the Hutton Commission and confirmed that further more specific discussion would be had at the next meeting on 25th August 2010.
- 4.2 Andy Dark confirmed that the FBU would be willing to engage in any discussion. He said that as he anticipated most representative organisations would be making independent submissions to the Commission he was unsure of the benefit or value from any discussion within the FPC.
- 4.3 Fred Walker highlighted that many FRAs are in the process of considering how they can manage annual budgets which may be reduced by 25%. He said that the setting up of the Hutton Commission was a timely reminder of the reality of the costs of the firefighter pension schemes.
- 4.4 Glyn Morgan said that the FOA was concerned that the Hutton Commission would not be given an accurate picture of the firefighter schemes In light of the ongoing debate with regards to the reliability of the data used by GAD.
- 4.5 Ivan Walker made reference to the Chancellor's decision to switch from RPI to CPI as a means of index linking pensions and asked whether this would be applied to past accruals. He said that this question had been raised previously and CLG were uncertain of the position. The Chairman confirmed that the position regarding the Chancellor's decision was still not clear and that CLG were awaiting further guidance from HM Treasury.
- 4.6 Ivan Walker said that CPI had historically been running at approximately 0.5% lower than RPI and, therefore, this move would have a significant impact on the future cost of both schemes.
- 4.7 Terry Crossley said that the Chancellor's decision to use CPI to index link pensions demonstrated the strength of the Government's resolve in dealing with the problem of the fiscal deficit. He said that this was a critical time and recommended that organisations should make their representations to the Hutton Commission as they think fit.
- 4.8 Ivan Walker said that the Chancellor had given assurances that past accruals would be protected, however, if CPI was to be applied to past accruals then this would have the real effect of reducing members' accrued benefits.
- 4.9 Terry Crossley highlighted that there was an advantage from using CPI as the base for index linking pensions in that the future costs of the schemes could be reduced by approximately 10%.

4.10 Fred Walker emphasised that the LGA were particularly concerned about the affordability of the firefighter pension schemes.

5. Retained firefighters: Pension Scheme membership – FPC(10)6

5.1 The Chairman said that the intention of paper FPC(10)6 was to update members on negotiations between CLG and the FBU on retained firefighters claim for pension scheme membership. Both parties had reached agreement and were now discussing how the terms could be put into legislative effect within the NFPS. There would be a substantial amount of work involved in implementing the agreement and CLG were currently consulting FRAs. CLG was also keeping colleagues in the devolved administrations informed.

5.2 Andy Dark of FBU asked about the group referred to in the final paragraph of the Committee paper. The Chairman said that he was establishing a small group of interested parties, similar to that set up during the introduction of the NFPS, to prepare the necessary documentation and guidance for an options exercise. CLG was already liaising with a group of HR professionals from FRAs to determine what payroll and other data was available for contribution calculations and general pension purposes. Once CLG was fully aware it would consult the FBU and other interested parties on the mechanics of implementing the agreement.

5.3 Ivan Walker made reference to point 10 of the Annex to paper FPC(10)6 and said that the FBU would continue to pursue the issue of injury awards separately from the settlement of the pension issue.

5.4 John Barton of the RFU asked whether those retained who chose not to join the pension scheme would lose their protected right to be treated as a whole-time regular firefighter if they suffered a qualifying injury. The Chairman confirmed that all retained firefighters, other than those who are currently receiving pensions, would be treated as part-time workers and would, therefore, have their injury awards prorated according to their pensionable service.

5.5 John Barton also asked whether any consideration would be given to introducing a provision within the FCS to protect those retained firefighters who lost their primary employment as a consequence of sustaining a qualifying injury whilst undertaking their retained duties. The Chairman said that this would not be for CLG to develop.

5.6 Des Prichard explained that the outcome of any agreement would affect smaller FRAs disproportionately as they would employ larger numbers of retained firefighters. He said that the smaller FRAs would need to be given early notification so that they could prepare for the additional administration work that any agreement would require and make financial provision for the additional cost associated with the backdated employer

contributions. The Chairman confirmed that CLG was already corresponding with HR and finance staff within FRAs about the impact of the agreement.

- 5.7 Des Prichard said that he would consult with Fred Walker with a view of issuing a note to FRAs to raise awareness of the administrative and financial implications of implementing any agreement.

ACTION: APFO to consult with the LGA with a view of issuing a note to FRAs to raise awareness of the administrative and financial implications of implementing any agreement.

6. Early retirement and commutation cap under rule B7(4) – FPC(10)8

- 6.1 The Chairman said that CLG had received approaches from several FRAs seeking an amendment to Rule B7(5) of the FPS to provide a discretion to permit those members who retire with less than 30 years' service or under 55 years of age to commute up to a maximum of a quarter of their annual pension. The current rule restricted these members to a maximum lump sum of 2.25 times annual pension. Whilst it could be argued that an amendment would not incur any additional long term cost to the scheme, there would be an immediate impact on top-up grant. CLG therefore propose that where a FRA decides to exercise the discretion it would be required to pay the additional lump sum cost from its operating account. This would also act as an effective discipline that would ensure that FRAs considered the costs and benefits for each case.
- 6.2 Paul Fuller said that APFO would welcome the increased flexibility but that there was a cautionary note to FRAs who would effectively be subsidising the reduced pension.
- 6.3 Andy Dark confirmed that as the amendment was clearly for the benefit of members, the FBU was content with the proposal.

7. Any other business

Chief Officers' Pensions

[Secretary's Note: Joe Lowe of Cosla submitted a paper entitled 'Chief Officers' Pensions' on behalf of the Scottish Fire Conveners Forum. This has been attached at Annex B]

- 7.1 Joe Lowe circulated and introduced his paper. He stated that as a consequence of new tax rules there were 10 Chief Fire Officers in the UK FRS who would be liable for a punitive tax charge of 55% of their commuted lump sum and pension payments if they retired before age 55, solely because of the date of their appointment. He suggested that the Committee should consider this to be unacceptable, unfair and potentially discriminatory and requested that a group be set up to look into the issue.

- 7.2 Des Prichard confirmed that APFO supported the paper and said that there appeared to be an anomaly that affected only 10 CFOs because of the date of their appointment. As a consequence of this tax change the Fire and Rescue Service could have two CFOs working for adjoining authorities with only one of them being subjected to the additional tax charge on their lump sum and annual pension.
- 7.3 The Chairman responded that CLG had met with HMRC and discussed the matter with them on several occasions. HMRC have clearly stated that their position is that as the CFOs in question did not have an unqualified right to retire before age 55 in December 2003 when the raising of the minimum pension age was first promulgated, they would be subject to the tax charge if they were to retire prior to reaching age 55 after April 2010. He stressed that this was not a pensions issue as the FPS still provided for CFOs to retire from age 50 years. The crux of the matter lay with HMRC's interpretation of the Finance Act. CLG's legal advice was that retrospective change to the pension scheme with regards to this issue was not possible but the affected CFOs could apply to the High Court to seek a declaration on HMRC's interpretation.
- 7.4 Des Prichard suggested that the FPC could issue a note to HMRC stating that it was the view of the committee that their interpretation of the scheme rule was incorrect.
- 7.5 Fred Walker said that the LGA could not support a position that undermined their encouragement of CFOs to work until they reached at least age 55. He said that there had been recent bad press regarding this issue and that FRAs should not be seen to be facilitating tax avoidance. The LGA firmly believes that the FPS is worth retaining and that such action could jeopardise its future.
- 7.6 John Enos said that CoSLA had not had a chance to consider the matter and, therefore, reserved their position until such times they had consulted with SPPA, Scottish Executive and Scottish Government.

ACTION: CoSLA to consider the latest paper submitted by the Scottish Fire Conveners Forum and consult, as necessary, with other Scottish interests.

8. Dates of Future Meetings

25 August 2010 (11am)
17 November 2010 (11am)
2 February 2011 (11am)
4 May 2011 (11am)
9 August 2011 (11am)

***Communities and Local Government
August 2010***

Annex A

Attendees

Martin Hill (Chairman)	DCLG
Terry Crossley	DCLG
Andy Boorman	DCLG
Anthony Mooney (Secretary)	DCLG
Fred Walker	LGA
James Dagleish	LGA
Jenny Coltman	SPPA
Christine Maguire	DHSSPSNI
Erika Beattie	NIFRS
Joe Lowe	CoSLA
John Enos	CoSLA
Jason Pollard	Welsh Assembly
Andy Dark	FBU
Tam Mitchell	FBU
Ivan Walker	Thompsons Solicitors
Phil Lancaster	CFOA
Des Prichard	APFO
Paul Fuller	APFO
Glyn Morgan	FOA
John Barton	RFU
Tristan Ashby	RFU
Dr Will Davies	ALAMA

Apologies

Ged Murphy	LGA
Eunice Heaney	Pensions Consultant

Chief Officers' Pensions: Paper by the Scottish Fire Conveners Forum

Please see PDF attachment.