

FIREFIGHTERS' PENSION COMMITTEE

NOTE OF THE 51st MEETING OF THE FIREFIGHTERS' PENSION COMMITTEE HELD ON 22nd JANUARY 2014 AT ELAND HOUSE, BRESSENDEN PLACE, LONDON

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

1. Introduction

1.1 The Chair welcomed everyone to the meeting.

2. Note of the 50th FPC meeting

2.1 The Chair summarised the action points from the 50th FPC meeting:

Action 1 (paragraph 4.3) and **Action 3** (paragraph 4.15): written were received from FBU, FOA and LGA

Action 2 – Paragraph 4.7: DCLG undertook a survey of FRAs on new duty systems and temporary promotions to inform the valuation assumptions

Action 4 – Paragraph 8.1: Written responses on the proposed amendments to the 1992 and 2006 Schemes were received from the FBU and FOA

2.2 The note of the 50th meeting was agreed.

3. The Pensions Regulator: consultation on draft code and draft regulatory strategy for public service schemes

3.1 Robert Plumb, The Pensions Regulator (TPR), provided an overview of the consultation on the draft code and draft regulatory strategy for public service pension schemes.

3.2 The Chair said that the draft code covered activities that FRAs should already be undertaking e.g. the IDRPs, and that the additional matters predominantly relate to new governance arrangements. Robert Plumb explained that TPR's approach was not to go beyond the minimum that was required by the Pensions Act and, as such, most practices covered were already in existence.

3.3 Des Prichard advised that in the past FRAs had misinterpreted certain scheme rules which had resulted in a legal challenges and scheme costs. He asked whether the purpose of these new arrangements is to provide additional clarity on the scheme rules. Robert Plumb said that the code of practice was not intended to interpret scheme rules but would provide high level controls to make sure that the pension benefits being paid were correct.

3.4 Des Prichard made reference to the paper on the future of the FPC (see paper FPC(14)4) and asked where future discussions about scheme specific issues would take place, and whether sufficient guidance be provided to FRAs. Robert Plumb explained that these matters would be more pertinent to the Pension Boards, rather than the Scheme Advisory Board (SAB). He said that

the Regulator would liaise closely with schemes and share their plans in the future.

- 3.5 Jim Preston explained that there was an important link between the Pensions Board and the SAB in that Pension Board would need to be aware of any technical issues to ensure that they can fulfil their responsibilities.
- 3.6 Des Prichard said that there was a real need to ensure a consistent approach where there are a large number of scheme administrators. The introduction of the 2015 scheme provided a new opportunity to achieve this.
- 3.7 Ivan Walker explained that any guidance issued by the SAB to the Secretary of State would only represent its interpretation of the legislation and that it was a Court's interpretation that mattered. The Chair said that that if the SAB issued guidance then it is likely that a Court would consider this. He said that the SAB may be given statutory authority to provide guidance within the scheme regulations.
- 3.8 Jim Preston asked what would happen if a scheme manager interpreted the scheme's regulations differently from the SAB. The Chair said that the scheme manager would remain legally responsible and would have to justify any decisions. He also said that if the SAB felt that there was a lack of clarity on certain aspects of the scheme, they could highlight the desirability of certain changes to the Secretary of State.
- 3.9 Robert Plumb said that if there was an obvious and clear breach in the law then there was a responsibility on the SAB to inform the Pensions Regulator. Ivan Walker explained that the correct interpretation of the regulations would still have to come from the Courts. Robert Plumb responded by explaining that whilst the code was not law, Courts would still consider the code.
- 3.10 Trevor Peel said that the Pensions Act requires significant training for Pension Board members. He asked when the training would be available and whether the training would be generic or scheme specific. Robert Plumb confirmed that the Pensions Regulator was currently working on an e-learning training toolkit which should be available on its website by the end of November 2014. He said that there will be a section for administrators and that the final training will come in stages. He welcomed suggestions on what administrators would find useful to be included in the toolkit. The Chair said that the toolkit would not deal with scheme specifics but would cover all public sector schemes in general. He said that this provided an opportunity for the FPC to consider what scheme specific training would be useful.

ACTION: FPC members invited to comment on what should be included in the e-learning training toolkit.

- 3.11 Ivan Walker asked whether a local Pension Board which was unable to fill its vacancies would be in breach of the Pensions Act. Robert Plumb highlighted that the Pension Act did not specify the number of members that should be on a board.

4. Employee contributions 2014/15 – oral update following consultation

4.1 Sharon Mayers updated the Committee on the consultation. She said that the consultation closed on Friday 10 Jan and that 18 responses had been received by the Department, which included 11 responses from employers. The Department was currently analysing the responses but the key themes raised were similar to the comments made in response to the 2013/14 consultation on employee contributions, which included:

- some support for the proposals including, in particular, agreement that there was continued need of some protection on contribution increases for 2006 scheme members;
- a number of respondents objected to any further increases or suggested alternative lower rates to be phased in over a longer period of time;
- continued concern on the long term impact of members who opt out or decide not join the scheme - with the full extent of the increases, alongside the reforms, not being fully felt;
- suggestions that opt outs had been low to date as some 1992 scheme members were protected from the reforms and therefore would wish to remain in the scheme;
- that some members might be retiring at the earliest opportunity and before achieving full 30 years service;
- that opt outs and early retirements had a possible impact on workforce planning and succession issues, and also the long term viability of the scheme.

4.2 Sharon said that, although DCLG hasn't received full data from authorities, one particular authority had expressed concern about the number of women firefighters and firefighters from ethnic minority backgrounds that had decided not to join the 2006 scheme.

4.3 The Government would fully consider these issues before making a final decision on the rates to apply. It was expected that the Government response and accompanying legislation would be made in early March.

[Secretary's Note: The Government response to the consultation was published on 6 March 2014 and can be accessed at: <https://www.gov.uk/government/consultations/firefighters-pension-scheme-1992-and-new-firefighters-pension-scheme-2006>. The enabling legislation was also laid in Parliament on 6 March.]

5. Scheme Valuations 2012

Feedback on proposed assumptions – FPC(14)1

5.1 Rich Haines introduced the committee paper.

5.2 It was agreed that the Department would circulate the results of the survey assessing the impact of temporary promotions and the introduction of new duty systems on assumptions on promotional pay scales.

ACTION: DCLG to circulate the results of the survey assessing the impact of temporary promotions and the introduction of new duty systems on assumptions on promotional pay scales

[Secretary's Note: Please note that the survey results have been circulated along with the this note of the discussion]

- 5.3 Ivan Walker highlighted that there would be significant changes to firefighting duty systems in 2014. He said that it was not clear how much GAD had considered the impact of these changes. The Chair explained that the impact on costs would largely depend on the profile of the workforce deployed to the duty systems.
- 5.4 Des Prichard explained that the 'daycrewing plus' duty system tended to be taken up by younger firefighters who stay on the duty system until retirement. He said that there was insufficient data for GAD to make assumptions on this.
- 5.5 Sean Starbuck made reference to the assumption that GAD adopted for ill-health retirements and said that it was the FBU's view that this was incorrect. He confirmed that he would set out the point in writing.
- 5.6 The Chair made reference to withdrawal rates and said that current decisions on opting out of the schemes' membership would not be a good indicator on long term future trends.
- 5.7 Sean Starbuck made reference to the assumption on commutation and said that it was the FBU's view that the assumption that 15% of pensions are commuted was too high. The Chair said that the assumption was based on evidence from existing schemes with a NPA 60 and factor of 12:1.

Revised scheme liabilities – FPC(14)2

- 5.8 Mike Scanlon explained that the last Scheme Valuation, as at 31 March 2007, had assessed the value of scheme liabilities accrued to be £13.8bn. He said that following HMT's directions, GAD had revisited this figure and concluded that £13.5bn would be a more accurate assessment of the value of liabilities as at that date. He emphasised that the original £13.8bn figure did not impact on any recommendations that flowed from the 2007 Valuation exercise and that it would not have any impact on the employer cost cap mechanism.
- 5.9 Cllr Heaster said that a difference of £300m was very significant and merited a more detailed explanation. Mike Scanlon explained that the error occurred when the data was transcribed to the final report. He emphasised that the original £13.8bn had been provided for information purposes only and had no material significance. The Chair said that it was now important that the most accurate figure was used to set SCAPE notional assets.
- 5.10 Trevor Peel said that the bottom line was that there was now a £300m gap in the Scheme assets between the 2007 and 2012 Valuations and that the costs would need to be increased to reflect this. The Chair said that the assets and liabilities would be set as equal, so there was no gap in the notional assets or

liabilities in 2007. Any gap which appeared would be as a result of scheme experience between 2007 and 2012.

- 5.11 Cllr Heaster suggested that FRAs would need to reassess their budgets in response to the 2% decrease in scheme assets. He said that this additional cost would have to be made up with further contributions from employers. The Chair responded by reiterating that both the assets and liabilities would be set as equal in 2007. He invited members to provide further information how the figure been used to set FRA budgets.
- 5.12 Des Prichard explained that FRAs have 5 year spending plans and would have made decisions based on the best information available. He asked whether the £300m gap in scheme liabilities would now mean that FRAs had to make additional savings. Mike Scanlon said that HM Treasury policy was that the scheme assets should be set to equal scheme liabilities as at 31 March 2007. He said that if the error had not been identified then there would have been an unaccounted for scheme surplus. He said that the error will not cause any increase in employer contributions from April 2015, although these may increase for other unrelated reasons.

6. 2015 scheme member benefits consultation – oral update

- 6.1 The chair advised the Committee that the Department was currently consulting on the draft regulations for membership benefits in the Firefighters Pension Scheme 2015. He said that whilst the consultation covered the majority of membership benefits, it did not include membership benefits relating to the public service transfer club or set the employee contribution rates to apply in the 2015 scheme. Responses to the consultation are due before 12 March. The enabling legislation is complex and the Department has set up a number of meetings with administrators to seek their comment. Further consultation on the transitional arrangements would follow later in the year.

7. Employer cost cap procedure – FPC(14)3

- 7.1 Sharon Mayers explained that the paper proposed the process to follow if, following the valuation of a scheme, the 2 percentage point margins above or below the employer cost cap were exceeded. In this case, the scheme regulations would prescribe a process to ensure costs of the scheme are returned to the target cost (equivalent to the cost cap). This will either mean a change to the scheme design of membership benefits or a change to the contribution rate.
- 7.2 It was proposed that the Scheme Advisory Board (SAB) would be responsible for considering options to bring the scheme back to the target cost. The SAB should agree how to approach this issue, including how agreement to recommend scheme changes should be reached, for example by unanimous or majority vote. Any proposed options would need to be verified with the Scheme Actuary to ensure they are within target cost.
- 7.3 The SAB would have a minimum of 3 months, but no more than 6 months, from the date that this issue is brought to its attention to consider the options. This period of consideration may be extended by the Secretary of State if it

appeared that the SAB would reach agreement. At the end of this period, if agreement was reached, the SAB would make recommendations to the Secretary of State on the changes required to bring the scheme costs back to the target cost, and the Secretary of State should have regard to these recommendations. If agreement could not be reached, then the default mechanism would be a change to the accrual rate.

- 7.4 In terms of timing, it was proposed that any changes to the scheme design would coincide with any changes that may be required to the employer contribution rate. Changes to the employer rate would be made at the scheme's implementation date. The Department was proposing that the scheme's regulations set this as a period of 3 years and 1 day after the effective date of the valuation.
- 7.5 Ivan Walker expressed concern that the 6 months that the SAB have to consider the options to bring costs back down to the target cost would be a very tight timetable. The Chair highlighted that the Secretary of State would have discretion to extend this period.
- 7.6 Cllr Heaster said that the tight timetable made it even more important that any recommendations made by the SAB to the Secretary of State were actioned.
- 7.7 Ivan Walker said that it would be important that the SAB received draft Valuation results on time in order to make the required changes. The Chair said that the Department would consider extending the 6 month period to 9 months with discretion for the Secretary of State to extend further.

8. Future of the Firefighters' Pension Committee – FPC(14)4

- 8.1 The Chair set out that the Pensions Scheme Act 2013 required the establishment of a Scheme Advisory Board (SAB) to provide advice to the Secretary of State, on request, on the desirability of changes to the Firefighters' Pension Schemes in England. He said that this presented an opportunity for the committee to consider the structure, role and function of the SAB and where the FPC would fit in with the new structures.
- 8.2 Glyn Morgan suggested that the SAB should have a role in preparing scheme guidance.
- 8.3 Des Prichard suggested that it would be useful to look at both the past successes and failures of the FPC. He said that the role of the SAB should be to ensure that the schemes are administered effectively and efficiently.
- 8.4 Sean Starbuck asked who would represent the scheme members' interests on the SAB. He said that the FBU should represent members as they have most members. He also said that the NJC should be the new SAB which would ensure the right mix of members' and employers' representation. The Chair explained that the intention was to have wide representation on the board.
- 8.5 Ivan Walker asked whether negotiations on pensions would take place within the SAB. The Chair explained that the SAB would be the venue where discussions on pension issues would take place and a consensus reached.

- 8.6 Des Prichard said that there was still a need to interpret the schemes' legislation and suggested that this role could also be undertaken by the SAB.
- 8.7 Trevor Peel suggested that responsibility for keeping within the cost cap should be a function of the SAB. The Chair agreed, explaining that the implication of breaching the cap is substantial, it should be in the interests of all parties to ensure that the costs of the scheme are maintained within 2% of the cost cap.
- 8.8 Ivan Walker said that individuals would have different views on how the costs should be maintained which can then become a partisan issue. The Chair responded by explaining that there would be a default position where agreement can't be reached.
- 8.8 Trevor Peel asked what would happen if the Secretary of State did not implement proposals made by the SAB. The Chair explained that the expectation would be that the Secretary of State would consider all advice given and come to an informed decision, which would include explaining why any particular recommendation was rejected or accepted.
- 8.9 Glyn Morgan asked for clarification on how the SAB would be funded. The Chair advised that the financing arrangements would be discussed at a later date. Cllr Heaster said that there was normally significant costs associated with having an independent Chair and suggested that the possibility of having a rotating Chair. Trevor Peel suggested that an independent Chair would want independent advice, whereas with a joint Chair each party could seek their own advice.
- 8.10 Tristan Ashby asked where the devolved administrations would fit in with the new arrangements. The Chair confirmed that the devolved administrations would need to have their own SAB arrangements in place. Jim Preston confirmed that Scotland would set up its own SAB and that there would be some form of cohesiveness with England. He said that Scotland would still like to retain an observer status with the English SAB. John Craig of the Scottish Government suggested that this might be light touch such as being copied into committee papers.
- 8.11 Mike Scanlon advised that GAD have an observer role on the LGPS SAB. If the SAB makes recommendations to the Secretary of State then GAD would need to ensure that there was no conflict of interest when giving actuarial advice to the Secretary of State.
- 8.12 Terry Crossley asked whether GAD would undertake future Scheme valuations. Michael Scanlon responded by saying that it would be up to the Secretary of State to appoint a Scheme Actuary.
- 8.13 Sean Starbuck said that to get agreement at the SAB you will need some form of voting arrangements and, as such, the FBU would object to not having proportional representation.

8.14 The Chair advised that the SAB would need to be in place by 1 April 2015 but that the first meeting would ideally be held prior to then. He said that he did not see a need to continue the FPC after the SAB had been established.

8.15 The Chair invited volunteers for a task group to consider arrangements for introducing the SAB for the firefighters' pension schemes in England.

[**Secretary Note:** the members of the group will be Sean Starbuck, Des Prichard, Glyn Morgan, Cllr Maurice Heaster, James Dalglish and Jackie Wood]

9. Firefighters' Pension Scheme – statement of persons to be consulted – FPC(14)5

9.1 Sharon Mayers explained that the Pensions Act 2013 requires the Secretary of State to consult, before making regulations in respect of the firefighters' pension schemes, persons that appear to be affected by the regulations, and to publish a statement of who has been consulted. She said that the draft statement (attached to committee paper FPC(14)5) sets out the persons that the Department proposes to consult when making changes to the firefighters pension scheme regulations. In the majority of cases there would be full open public consultation and, therefore, the statement lists those persons to whom the consultation will be drawn to the attention. The statement also lists the persons who would be consulted in limited circumstances, such as consultations on detailed technical discussions. Views from Committee members were invited.

ACTION: Committee members invited to comment on the statement of persons to be consulted.

9.2 Sean Starbuck questioned who were the 'Chief Fire Officers of the Fire and Rescue Authorities in England' currently listed as an employer. The Chair said that this was an error and would be removed.

10. Any Other Business

10.1 Des Prichard made reference to the amendments made to the abatement provisions in 2013 which conveyed a responsibility on FRAs to abate a member's pension if they become re-employed following retirement, or face the requirement to pay the costs into their pension account. He said that it may not always be easy for an FRA to be aware of the need to abate where the retired member has been re-employed by another FRA. The Chair suggested that this a communication issue and that the FRA should routinely seek appropriate confirmation from the member.

10.2 Trevor Peel asked whether there had been any further update on HM Treasury's proposals to cap AME funding of pensions. The Chair said that he would find out the status of this.

11. Dates of future meetings

22 April 2014 (10am)

24 July 2014 (10am)

30 October 2014 (10am)

***Department for Communities and Local Government
April 2014***

Annex A

Attendees

Andrew Cornelius (Chairman)	DCLG
Chris Megainey	DCLG
Sharon Mayers	DCLG
Anthony Mooney (Secretary)	DCLG
Robert Plumb	The Pensions Regulator
Cllr Maurice Heaster	LGA
Jackie Wood	LGA
Rich Haines	GAD
Mike Scanlon	GAD
Andrew Bayne	Kent FRS
Trevor Peel	Leicestershire FRS
John Craig	Scottish Government
Jim Preston	SPPA
Claire McGow	SPPA
Terry Crossley	Welsh Assembly
Sean Starbuck	FBU
Ivan Walker	Thompson's
Ian Hayton	CFOA
Des Prichard	APFO
Glyn Morgan	FOA
Tristan Ashby	RFU

Apologies

James Dalglish	LGA
Alyson Hall	GMFRS
Dr Will Davies	ALAMA
Donna Mullan	NIFRS