

## **FIREFIGHTERS' PENSION COMMITTEE**

### **NOTE OF THE 21<sup>st</sup> MEETING OF THE FIREFIGHTERS' PENSION COMMITTEE HELD ON 14<sup>th</sup> FEBRUARY AT ELAND HOUSE, BRESSENDEN PLACE, LONDON**

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

#### **1. Introduction**

- 1.1 The Chairman welcomed everyone to the meeting. Andy Dark (FBU) requested that the Continual Professional Development (CPD) allowance be included on the agenda.

#### **2. Minutes of the 20th FPC meeting**

- 2.1 Chris Large (APFO) referred to the fourth sentence of paragraph 4.6 of the minutes and said that the current wording did not read properly. He suggested that it be changed to:

*“The Chairman responded by saying that DCLG had taken care when developing the NFPS to ensure that the scheme did not discriminate on the basis of age and gender and no equality assessment had been considered necessary.”*

- 2.2 Subject to this amendment, the minutes of the 20<sup>th</sup> FPC meeting were agreed.

#### **3. Matters arising from the 20th FPC meeting - FPC(07)3**

- 3.1 The Chairman introduced committee paper FPC(07)3. He referred to paragraph 4.1 of the minutes of the last meeting and said that the Office of Public Sector Information (OPSI) had agreed to produce a corrected version of the NFPS Order. DCLG would advise FRAs when the correct version has been published.

**ACTION:** DCLG to advise FRAs when the Stationery Office publishes the correct version of the NFPS Order was published

- 3.2 The Chairman also advised members that the Joint Committee on Statutory Instruments had made two comments on the NFPS Order which would be reflected in future amendments. The main one was in relation to rule 1 of Part 2 because, as drafted, it was not clear how a person could opt to become a member. It had been agreed with DCLG lawyers that we would bring forward any amendments after the completion of the Options Exercise.

- 3.3 Ivan Walker (Thompson's) referred to paragraph 3.6 of the minutes. He said that the guidance relating to the Local Government Pension Scheme (LGPS) states that where no comparable job is available employees could be considered for ill-health retirement. The Chairman responded that the ill-health retirement provisions in the LGPS were worded similar to those in the NFPS and FPS. LGPS

guidance might be less forceful but guidance did not constitute a definite interpretation of what the legislation says.

- 3.4 Ivan Walker said that he considered that the changes to the guidance were creating problems in cases where a firefighter had been determined to be permanently disabled for fighting fires, but not other role related duties, and where no appropriate job was available. The Chairman responded that members of the FPS or NFPS who were fit to carry out other role related jobs other than firefighting were not permanently disabled for the purposes of the Schemes and therefore not eligible for ill-health retirement. The pension schemes were not the vehicle to deal with these situations and there needed to be a separate mechanism, which could possibly offer some form of compensation to members who could not be re-deployed. This was an issue for the employers in the first instance who should come forward with proposals to deal with it. Any associated costs would not be borne by the pension schemes. DCLG was currently considering a number of issues relating to the management of ill-health retirements and needed to consult further with HR managers in the FRS to ascertain how best to manage any problems that have resulted from the tightening up of ill-health eligibility criteria.
- 3.5 Fred Walker said that the LGA accepted the points that were raised regarding ill-health retirements and were keen to get a solution. Ian Hayton undertook to ask Gill Thornton (Cheshire FRS), who was leading for CFOA, to take this matter further in discussion with the Chairman.
- 3.6 Andy Dark said that until a solution had been reached, the FBU would expect that in cases where a member cannot be re-deployed because no position was available they should be eligible for ill-health retirement.
- 3.7 The Chairman said that one of the related issues was the protection of pension where a member had been redeployed to a lower paid position, or had lost the flexible duty allowance. DCLG would be bringing forward proposals to provide for split pensions in the FPS on the lines of the provision in the NFPS.
- 3.8 Ivan Walker referred to paragraph 3.9 of the minutes of the 20<sup>th</sup> FPC meeting and said that rather than a view, he considered DCLG's circular to constitute the interpretation of the legislation and asked the Department to make clear to FRAs that the guidance only represented DCLG's view of the legislation. The Chairman responded that it was clear from FPSC 11/2006 that it was only guidance. It was up to the Courts to provide a definitive interpretation of the legislation.

**Action:** Ian Hayton and the Chairman to discuss ill-health related issues with CFOA.

- 3.9 Derek Chadbon (RFU) asked about the standard transfer factors for the NFPS. The Chairman said that the main factors had been issued as part of circular FPSC 1/2007. He said that GAD had still to provide further transfer factors as well as guidance on how to deal

with members who have pension debits attached to their pensions and who want to transfer into the NFPS.

- 3.10 Derek Chadbon asked for an updated on the progress of the Options Exercise. The Chairman said that DCLG had carried out a survey and, according to the results, most FRAs had issued the documentation by the middle of January. He said that all documentation could be downloaded from the DCLG website.
- 3.11 Bertie Kennedy of DHSSPSNI advised the FPC that option packs had been issued to all firefighters in Northern Ireland (862 wholetime firefighters and 958 retained firefighters). Out of 676 forms returned so far by wholetime firefighters only 4 wished to join the NFPS; and out of 162 forms returned by retained firefighters, 142 wished to join the NFPS. Of the 142, 117 wanted to join from 6<sup>th</sup> April 2006 and the remainder wanted to join from the next pay date period.
- 3.12 Derek Chadbon also advised the Chairman that he understood that Suffolk FRA had extended the closing date for the options exercise. The Chairman said that the closure date of the options exercise was set out in the NFPS Order and therefore there was no discretion to extend. He would contact Suffolk FRA and advise them accordingly.

**ACTION:** The Chairman to contact Suffolk FRA to advise them that closing date of the options exercise is set out in the Order and therefore cannot be extended.

- 3.13 Andy Dark referred to paragraph 4.6 of the minutes of the 20<sup>th</sup> meeting and said that firefighters who are re-employed following retirement into a role which lies outside the eligibility criteria as set out in Part 2, paragraph 1(a) of the NFPS Order, would not be able to join the NFPS. He said that the FBU had an issue with this. Glyn Morgan of FOA supported this view. The Chairman responded that the NFPS was designed for employees who fight fires, and the benefits reflected the physical fitness standards required: it was accepted that firefighters could not be expected to maintain these standards beyond age 60. It was not designed for people who attend and manage incidents, which requires different physical fitness standards. DCLG had accepted that firefighters who were initially recruited for fighting fires and who progress to a more senior role without a break in service, would have a legacy from fighting fires and should therefore be allowed to remain in the pension scheme. There was no reason why employees recruited into more senior roles should be treated so favourably and therefore the LGPS would be a more appropriate scheme for these individuals. At present there was justification for the provision of a separate pension scheme for firefighters but if this justification was eroded by allowing entry for employees whose main duties did not revolve around firefighting then it was likely that HM Treasury would question the need for a separate scheme.

#### **4. Any Other Business**

##### (i) IQMP Guidance

- 4.1 Ivan Walker asked about the status of the guidance that was currently being drafted for IQMPs and asked what guidance IQMPs were referring to at present. The Chairman said that the draft guidance was being discussed with ALAMA and DCLG were waiting for their comments. Current guidance for IQMPs consisted of the commentary on the website and circulars.
- 4.2 Will Davies (ALAMA) advised members that the draft guidance had been published on ALAMA's website inviting comments. A response was being prepared for DCLG.

##### (ii) CPD allowance

- 4.3 Andy Dark raised the subject of Continual Professional Development (CPD) payments. Agreement had been reached between the Employers and the FBU in the National Joint Council (NJC) that these payments should be pensionable and that the Joint Secretaries had written to DCLG on this. He explained that from the outset the FBU's aspirations had been for CPD payments to be pensionable. The Chairman responded by saying that DCLG had consistently made clear that, as with other allowances, the CPD payment would be pensionable if it was a permanent allowance, as was the Long Service Increment (LSI), and would not be if it was temporary, i.e. subject to regular review. The two main reasons for this were that there would no benefit in a member paying pension contributions on an element of pay that could be withdrawn and therefore might not be reflected in their pension; and it had the potential to act perversely by creating a situation where management would be reluctant to withdraw the allowance. As the CPD payment would be subject to review and possible withdrawal it could only be concluded that it was a temporary allowance.
- 4.4 Fred Walker pointed out that when a firefighter was promoted to a higher role and on a development rate of pay, any CPD payment would be withdrawn as the firefighter would not be considered to meet the CPD criteria in the more senior role.
- 4.5 Andy Dark asked about the timetable for responding to the Secretaries letter. The Chairman said that further information regarding the financing of the CPD payments was being sought from the Employers, thereafter advice would be given to Ministers, and he would expect them to make a decision in March. If Ministers agreed that CPD payments should be pensionable, amendment to the pension schemes would be necessary. The process of making amendments would take time and any changes would not be made before April/May 2007 but could be retrospective, if necessary. If any amendments were to be made, he would expect them to be tightly drawn to avoid the setting of precedents for other temporary allowances.

### (iii) Transitional arrangements

- 4.6 Ivan Walker made reference to the transitional arrangements and asked whether retained members who were in employment prior to 6<sup>th</sup> April 2006, and who therefore have protected rights, were required to make an election to keep their protected rights before 31<sup>st</sup> March. The Chairman said that there was no requirement for retained firefighters to make an election to keep their protected rights. The Compensation Scheme provided for payments to these firefighters to be calculated at a whole-time rate.

### (iv) Injury benefits

- 4.7 The Chairman said DCLG had received a formal complaint concerning the deduction of DWP benefits from injury awards. He said that his divisional manager had asked him to consult with FPC on whether the current guidance on the website relating to the deduction of DWP benefits was adequate. He said that he would be grateful if members would consider and provide comments.

[Guidance relating to the deduction of DWP benefits can be accessed via: [Injury Awards](#) ]

**ACTION:** Members of the FPC to consider and comment to DCLG whether the current guidance relating to the deduction of DWP benefits on the website was adequate.

- 4.8 Ray Jennings of LGA said that it was very difficult to administer the deduction of DWP benefits from pensions as members were very reluctant to declare the benefits they were receiving. It could also be difficult for an authority to get this information direct from DWP.

## **5. Dates of Future Meetings**

21 March 2007  
20 June 2007  
19 September 2007  
20 November 2007

**DCLG**  
**February 2007**

**Attendees**

Martin Hill (Chairman)	DCLG
Andy Boorman	DCLG
Maggie Smith	DCLG
Nitin Bhayani	DCLG
Anthony Mooney (Secretary)	DCLG
Fred Walker	LGA
Jim Preston	SPPA
Ray Jennings	LGA
Bertie Kennedy	DHSSPSNI
Andy Dark	FBU
Dean Mills	FBU
Ivan Walker	Thompson's Solicitors
Derek Chadbon	RFU
Ian Hayton	CFOA
Chris Large	APFO
Dr Will Davies	ALAMA
Glyn Morgan	FOA

**Apologies**

Eunice Heaney	Consultant
Terry McGonigal	NIFS
Kate Williamson	Scottish Executive
Terry McGonigal	NIFS
Jason Pollard	Welsh Assembly
Julia Letton	Welsh Assembly
Matt Wrack	FBU
Tam Mitchell	FBU
David Hosking	RFU