

FIREFIGHTERS' PENSION COMMITTEE

NOTE OF THE 28th MEETING OF THE FIREFIGHTERS' PENSION COMMITTEE HELD ON 19TH NOVEMBER 2008 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.

2. Minutes of the 27th FPC meeting

2.1 Ivan Walker of Thompsons requested the following amendments:

(i) in paragraph 3.8, change “had been seeking” to “were still seeking”;

(ii) in paragraph 4.7, change “released” to “applied”; and change “applied” to “used”*;

*In response to this amendment and to reflect the discussions, the 2nd sentence in paragraph 4.7 was amended to:

“Jim Preston said that the factors for police and fire had not yet been released in Scotland and, until they were, the old factors were still being applied. The Scottish Finance Minister was currently seeking funding from HM Treasury to cover the additional costs.”

(iii) at the end of paragraph 5.3, add the following paragraph:*

“Sean Starbuck informed the committee that CLG were aware that the FBU were appealing the Judicial Review decision when the circular and guidance were being finalised and that a meeting with CLG had taken place immediately after the judgement was released where the reasons for the decision to appeal were explained. In brief the reason for the appeal was that any CLG guidance is informal and could be disregarded, but the judgement could not. The FBU were advised at this meeting that the circular would be released when the guidance to IQMPs document was finalised.”

* In response to this amendment CLG added the following to the end of FBU's comment:

“The Chairman said that CLG had not been aware of the intention to appeal until the appeal process had been initiated by the appellants at the end of May.”

2.2 Des Prichard of APFO requested that paragraph 3.6 of the minutes be amended to reflect that the issue of eligibility criteria for NFPS membership “may be less important” rather than “is less important” following the announcement of the National Graduate Entry Scheme.

2.3 The minutes of the 27th FPC meeting were agreed, subject to recorded amendments noted in paragraphs 2.1 and 2.2 above.

3. Matters arising from the 27th FPC meeting - FPC(08)5

- 3.1 The Chairman introduced paper FPC(08)5 - 'Matters arising from the 27th FPC meeting'.

Consolidation of the FPS 1992

- 3.2 The Chairman confirmed that further comments in response to committee paper FPC(08)2 – 'Consolidation of the FPS 1992 Order' had been received from CFOA. He confirmed that CLG were currently considering all the comments that had been received. CLG would prepare draft instructions to lawyers and, when completed, would circulate a copy of the instructions to members.

ACTION: Circulate a copy of the draft legal instructions to members when complete

[Secretary Note: CFOA's letter and comments on paper FPC(08)2 are attached at Annex B of the minutes]

- 3.3 Des Prichard made reference to the proposed amendment to Rule K4, as outlined in Annex A of paper FPC(08)2. He said that the proposed amendment to extend the application of the abatement rule to all cases where retired firefighters are re-employed with any public service employer would be of significant disbenefit to the Fire Service. He continued by emphasising that the ability to attract and re-employ retired firefighters was a valuable tool used by FRAs for recruiting highly skilled people to fill specialised vacancies. He suggested that the application of abatement rules would reduce the FRS' ability to attract the best qualified candidates.
- 3.4 The Chairman responded by saying that public sector abatement rules were longstanding and authorities should be aware of the requirements. The intention of the proposed amendment to Rule K4 was to place on the face of the Scheme HM Treasury requirements to apply abatement to all public service pensions where the retired member was re-employed with a public service employer and was designed to protect the public purse from potential abuse. He also said that the fact that comparatively low retirement ages had been retained in the FPS was pertinent and were a reason for strict adherence to Treasury rules.
- 3.5 Jim Preston highlighted that the HM Treasury requirement to abate public service pensions on re-employment was not scheme specific and applied to all public service pensions, not only the firefighter pension schemes.
- 3.6 Ivan Walker questioned the need to abate a member's pension on re-employment. He argued that the money to pay the pension for any member who is eligible to retire should, theoretically, be set aside and therefore their re-employment should not represent any additional cost to the public purse.

- 3.7 The Chairman explained that the firefighter pension schemes operated on the principle of mutuality which meant that members would retire at different times and draw varying levels of benefit depending on their individual circumstances and choices. He also said that one of the consequences of the change to funding arrangements for firefighter pensions in April 2006 was that all pension liabilities were now underwritten by central government via the mechanism of Firefighters' Pension Fund (FPF). This meant that if a firefighter wanted to continue in employment but decided to retire at their earliest opportunity and then to be subsequently re-employed, the pension would represent a cost to the FPF and, if abatement was not applied an additional cost to the tax payer with regard to salary. He continued by saying that prior to the new funding arrangements, pension payments were paid from operational budgets and therefore FRAs had a clear interest in applying the abatement rules. The new funding arrangements had removed this incentive and therefore there was a need to provide FRAs with a clear direction on the HM Treasury's requirement to abate.
- 3.8 Ivan Walker suggested that the proposed amendment to Rule K4 to apply abatement in all cases where a retired member is re-employed in any capacity with any public service employer did not represent a clarification of the rule and was a clear change in the substance of the existing provision. In his opinion, this was a definite amendment to the scheme and he questioned the ability to amend it under the consolidation process. The Chairman confirmed that whether the amendment would be taken as part of the consolidation process or would require a separate amendment order would depend on legal advice.
- 3.9 Paul Woolstenholmes of FBU asked whether the application of abatement rules were discretionary. The Chairman said that the Treasury requirement to abate public service pensions on re-employment to the public service was not discretionary.
- 3.10 The Chairman concluded by saying that it was clear that there were arguments for and against the application of abatement. If members wanted a relaxation of the abatement rules for the FPS/NFPS then it would need to be raised with HM Treasury. It was agreed that Des Prichard would set out, in writing, the case against the application of abatement to firefighter pensions. This would be considered at the next FPC meeting.

ACTION: Des Prichard to set out in writing his case against the application of abatement rules to firefighter pensions, for the next FPC meeting

Formal Grievance: Age Discrimination

- 3.11 Please refer to section 4 of minutes.

Revised Commutation Factors

3.12 Please refer to section 5 of the minutes.

FPS III-Health Review Group Work – CLG circular and IQMP guidance

3.13 Please refer to section 6 of minutes.

4. Grievance: Age Discrimination – FPC(08)4

4.1 Following his commitment at the last meeting, the Chairman explained that CLG's response to the formal grievance that had been initiated by Laytons solicitors had been issued under cover of committee paper FPC(08)4. CLG had not received any further correspondence regarding the matter.

4.2 Des Prichard said that the only issue that had been raised with him was that some former firefighters, who had joined the Service 20-30 years' ago when membership of the FPS was compulsory, claimed that they had not been informed in 1986 when membership became optional that there was an option to make an election not to pay pension contributions (opt-out) under Rule G3 with the further option of cancelling this election (opt back into the scheme) prior to their 45th birthday.

5. Revised Commutation Factors – Oral Update

5.1 The Chairman confirmed that following a campaign instigated by FBU, CLG had now received approximately 2100 grievances from retired firefighters who had felt aggrieved by CLG's decision to apply the revised commutation factors retrospectively to pensions that commenced on or after 1st October 2007. The grievances, which were addressed to both CLG and GAD, had been submitted under the terms of the Internal Dispute Resolution Procedures (IDRP). Following advice from lawyers, it was CLG's view that IDRP was the incorrect route as neither CLG nor GAD were the trustees/managers of the FPS. The Chairman confirmed that CLG were treating the dispute as a general grievance.

5.2 It was explained that the Home Office had made a similar decision to apply the revised commutation factors for the Police Pension Scheme from the 1st October 2007 and that the Police Federation had sought Judicial Review (JR) of that decision. The JR was set down for 17th December 2008. The arguments in the police case covered similar ground to the grievance and CLG's legal advice was that no action should be taken until judgment in the police JR had been delivered. CLG had drafted a letter of response to the complainants which would be sent on the behalf of both CLG and GAD. This response was currently being cleared with lawyers and would be issued in due course.

- 5.3 Ivan Walker suggested that the FBU members' grievance was not the same as the Police Federation's claim and that any judgement in the Police JR would not affect the FPS.
- 5.4 Ivan Walker also made reference to paragraph 4.1 of the minutes and requested a copy of GAD's certificate which confirmed the application of the revised commutation factors to all pensions that came into payment on or after 1st October 2007. The Chairman clarified that no formal certificate existed and that GAD had provided written verification that the application of the old commutation factors was appropriate for all pensions that came into payment on or before 30th September 2007. The FBU had already received a copy of this letter from GAD by making an FOI request and that, as a matter of courtesy, if any other members wanted to see the letter they should request a copy direct from GAD.

6. Guidance for IQMPs – FPC(08)6

- 6.1 The Chairman introduced paper FPC(08)6 –'Guidance for IQMPs'. He said that CLG thought that it would be helpful to circulate a draft copy of the guidance that had been discussed at the Ill-Health Review Group (IHRG). He emphasised that the draft guidance may need to be revised following the judgement of the Court of Appeal in the London three case. CLG expected to issue the updated version of the IQMP guidance as part of a package with the LGA's HR Best Practice guidance and ALAMA's Key Capabilities guidance following the judgement.
- 6.2 Des Prichard of APFO said that it was clear that employers were required to do everything possible to keep a firefighter in employment. He said that the wording of paragraph 7 in the introduction of the guidance suggested that FRAs must consider the restructuring and creation of suitable posts prior to considering any particular case for ill-health retirement. HR professionals were concerned at this wording and suggested that this requirement was above and beyond those prescribed in the Disability Discrimination Act. He also suggested that the re-deployment of a firefighter to 'Green Book' positions would have implications in regards to equal pay and pension scheme membership.
- 6.3 The Chairman responded that the firefighter pension schemes were not concerned as to whether an employee was employed under 'Grey Book' or 'Green Book' terms: if an employee was recruited to fight fires then they would be eligible to join the firefighter pension schemes; and if they were redeployed, without a break in service, to another position within the role of a firefighter then they could remain in the pension scheme.
- 6.4 Ian Hayton of CFOA emphasised the need for the IQMP guidance to be read in conjunction with LGA's HR Best Practice guidance.
- 6.5 Ian Hayton also made reference to the last sentence in paragraph 7 of the introduction of the guidance and asked for clarification as to what was meant by "*the absence of a realistic prospect of suitable*

employment in the role at the end of the process is material to the decisions on whether the criteria apply and whether an award is made". The Chairman responded by saying that after a FRA had considered all the relevant processes in order to keep a firefighter in employment, it may become clear that the next appropriate step would be to consider ill-health retirement. When any case was referred to an IQMP, the FRA needed to detail in a written report all the steps that had been taken and what other jobs had been considered. The report would be tailored for each particular individual being considered and the IQMP would make a determination in each case as to whether ill-health retirement would be appropriate.

- 6.6 Des Prichard referred to paragraph 1.3 of the IQMP guidance which requires FRAs to have carried out "..... ***all*** *the processes necessary to redesign and reasonably adjust such jobs.....*" He asked whether there was a definitive list of the processes and suggested the sentence be amended to ".....*necessary HR processes to redesign and reasonably adjust such jobs.....*" The Chairman explained that LGA's HR Best Practice guidance would clarify the processes that FRAs would be expected to carry out. He said that LGA's guidance had not been formally issued yet but a draft copy of the guidance could be accessed on the pension's section of the CLG website.

[Secretary note: a copy of the draft guidance can be accessed on the CLG website via [Draft HR Best Practice Guidance](#)]

- 6.7 Ivan Walker said that if CLG were confident that the IQMP guidance was consistent with the law then there was no reason why it couldn't be issued. The Chairman explained that the IQMP guidance was only one element of an overall package which also included the LGA's HR Best Practice guidance and ALAMA's Key Capabilities guidance. He said that it was imperative that all three elements of the package were issued together. The Chairman confirmed that he would relay FBU's view to senior colleagues in CLG.

7. Internal Dispute Resolution Procedures – FPC(08)7

- 7.1 The Chairman introduced paper FPC(08)7 which set out the legislative changes that had been made to IDRPs arrangements. The changes meant that the firefighter pension schemes could either retain the existing 2 stage process, as agreed in 1997, or introduce a single stage process. It was CLG's view that the existing IDRPs arrangements worked satisfactorily and therefore there was no need to make any changes. Members were invited to comment on revised guidance attached at Annex B of the Committee paper.
- 7.2 Ivan Walker referred to the draft letter 1 for stages 1 and 2 that were attached to the revised guidance. He suggested that "*and*" be inserted after the second bullet point for both letters.
- 7.3 John Barton of RFU stressed that there was a need to remind FRAs that IDRPs existed and suggested that it would be helpful if

downloadable copies of the letters were published on the website. The Chairman agreed to publish word versions of the IDRPs in the "Forms and Guidance" section of the firepensions website rather than in Annex 12 of the Commentary.

ACTION: CLG to publish word versions of IDRPs on the pension's section of the CLG website

7.4 Des Prichard asked whether a definition of 'Trustee/Manager' of the scheme existed and whether there was a definitive list of their responsibilities, accountabilities and authority. The Chairman explained that as the FPS/NFPS were split schemes (i.e. national schemes administered locally), CLG would regard FRAs as scheme managers and this was consistent with advice received from HMRC. Each FRA will have authorised an administrator to act as its sub-scheme administrator and carry out its functions under legislation.

8. Any Other Business

8.1 Ivan Walker asked for clarification of the definition for pensionable pay for both firefighter pension schemes. He suggested that there was a lack of consistency amongst FRAs in the treatment of particular elements of pay. He made reference to a particular case where a FPS member, who had been employed on a day-crewing contract, had pension contributions deducted from the retained element of their pay but the FRA refused to include the retained element when determining the member's pensionable pay. He was aware of other cases where FRAs had been deducting pension contributions from Flexible Duty Allowance and overtime but did not include these elements of pay when determining pensionable pay.

8.2 The Chairman clarified that retained elements of pay that related to day-crewing activities would not be pensionable under the FPS and should not have pension contributions deducted. As day-crewing activities could change from one week to the next, it would not be sensible to pay pension contributions on this element of pay as there was potential that this would not be reflected in the member's final pension. Retained elements of pay would be eligible to be treated as pensionable under the NFPS, subject to the payment of pension contributions by the employee. Overtime pay was not pensionable under either of the firefighter pension schemes.

8.3 The Chairman suggested the only way to ensure that all pension contributions paid on allowances would be reflected in a member's pension would be to apply Additional Pension Benefits (APBs) arrangements.

8.4 It was agreed that CLG would ask contacts in the Fire and Rescue Service to clarify what elements of pay they treated as pensionable.

ACTION: CLG to ask contacts in the Fire and Rescue Service to clarify what elements of pay they treated as pensionable

9. Dates of Future Meetings

26 February 2009

28 May 2009

27 August 2009

***Communities and Local Government
November 2008***

Attendees

Martin Hill (Chairman)	DCLG
Andy Boorman	DCLG
Anthony Mooney (Secretary)	DCLG
Jim Preston	SPPA
Bertie Kennedy	DHSSPSNI
Erika Beattie	DHSSPSNI
Terry McGonigal	NIFRS
Tam Mitchell	FBU
Paul Woolstenholmes	FBU
Ivan Walker	Thompsons (Advisor to FBU)
Des Prichard	APFO
Ian Hayton	CFOA
John Barton	RFU

Apologies

Eunice Heaney	Consultant
Fred Walker	LGA
Sean Starbuck	FBU
Glyn Morgan	FOA
Craig Thomson	FOA
Tristan Ashby	RFU
John Terry	COSLA
Brian Wallace	COSLA
Dr Will Davies	ALAMA



**THE CHIEF
FIRE OFFICERS
ASSOCIATION**

The professional voice of the
UK fire and rescue service

Our Ref: IAH/LY

17 November 2008

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Dear Martin,

Consolidation of the Firefighters' Pension Scheme 1992 Order – FPC(08)2

At the 26th meeting of the Firefighters' Pension Committee held on 24 April 2008, FPC members were invited to submit their comments/views on the amendments that CLG had identified and/or identify other amendments that should be made as part of the consolidation exercise.

Following consideration, please find attached CFOA's views.

Yours sincerely,

**IAN HAYTON
CFOA LEAD ON PENSIONS**

Enc.

CFOA' COMMENTS ON COMMITTEE PAPER FPC(08)2 - CONSOLIDATION OF THE FIREFIGHTERS' PENSION SCHEME 1992

Rule	Purpose	Recommendation	CFOA Comments
A3	Exclusive application to regular firefighters. The rule applies the Scheme to regular firefighters who were employed before 6 th April 2006, their spouses or civil partners and dependants. A3(3) excludes from membership any person who has temporary employment (Rule A4) or is an instructor at a training centre maintained by the SofS (Rule A5).	A(3) is no longer required. Any regular firefighter employed as an instructor at a training centre maintained by the SofS would do so on secondment or, following resignation, as a deferred pensioner or whilst in receipt of an ordinary pension.	<i>Noted</i>
A4	Applies the Scheme to a regular firefighter who is employed temporarily (a) as an instructor at a central training institution maintained by the SofS; (b) an inspector appointed under s. 24 of the Fire Services Act 1947; (c) in connection with training members of the armed forces; and (d) in connection with training in any country or territory outside the UK.	No longer required. Instructors or trainers would be employed on secondment, etc (see A3 above). Section 24 of the 1947 Act has been repealed. Equivalent provision has not been made in the NFPS 2006.	<i>Noted</i>
A5	Applies the Scheme to a person who is employed permanently as an instructor at a central training institution maintained by the SofS.	No longer relevant. See A3 and 4 above. Equivalent provision has not been made in the NFPS 2006.	<i>Noted</i>
A6	This ensures that an employee of a fire and rescue authority whose employment is restricted to such duties as are desirable for training (as an auxiliary firefighter).	No longer relevant. The Auxiliary Fire Service was part of the UK's Civil Defence capacity and no longer exists.	<i>Noted</i>
A7	The provision sets out how to work out the length of a period of service when calculating benefits.	Required, although it would be more appropriately placed in the Part dealing with pensionable service (see part F).	<i>Agree to recommendation</i>
A8	The provision explains how aggregate pension contributions should be interpreted when an award is calculated.	Required, although it would be more appropriately placed in the Part dealing with pensionable pay (see part G).	<i>Agree to recommendation</i>
A10	Defines "disablement". (1) requires the matter to be considered at the time the question arises for decision; and for the disablement to be permanent. (1A) provides that in determining whether a disablement is permanent, an authority shall have regard to whether the disablement will continue to normal pension age; and (2) defines disablement as "incapacity, occasioned by infirmity of mind or body, for the performance of duty, except that in relation to a child it means incapacity to	Required but may need to be considered as a consequence of the London 3JR case	<i>Agree to recommendation</i>

	earn a living.		
A12	This explains how relevant service in the armed forces may qualify for awards under the Scheme.	This is relevant to Part I of the Scheme, but in so far as National service has been abolished it is not apparent that the provision is still required.	<i>Agree to recommendation</i>
A14	This provides that a person who has qualified for a pension under Rule B1 (i.e. is age 50 and has completed 25 years' service) may be required to retire on the grounds of efficiency.	It is not clear why this provision is required. A pension under Rule B1 would be payable regardless of the reason for retirement i.e., whether a voluntary retirement or dismissal. The reason for leaving is an employment issue and B1 provides the relevant pension.	<i>Agree to recommendation</i>
A15	(1) allows an authority to compulsorily retire a firefighter on grounds of disablement and activates the payment of an ill health award under Rule B3. (2) provides for a retirement to be void if, on appeal board of medical referees under Rule H2 decides that the appellant is not permanently disabled.	It is not clear why this provision is required. A pension under B3 would be payable if the permanent disablement criteria are met and Rule H3 provides for an appeal. Removal would avoid any confusion about the relationship between entitlement to a pension and continued employment. There is no comparable provision in the NFPS.	<i>Should read:- ...Rule H2 provides for an appeal</i>
B1	(2)(b) requires chief officer to have permission of FRA to retire before age 55.	Not appropriate to a pension scheme. This is a matter for the contract of employment.	<i>Agree to recommendation</i>
B5B	(5)(b) reference to deferred pension	The reference should be to a deferred pension under B5, not B3.	<i>Noted</i>
B6	Repayment of aggregate pension contributions.	B6(3) duplicates LA1(3) and may be deleted.	<i>Agree to recommendation</i>
D5	(3) limits payments to persons who have not attained the age of 17 unless they are disabled or in full time education.	The NFPS provides for payments to persons who have not attained the age of 18 in line with the definition of a child in tax legislation.	<i>Change to accord to new scheme Further clarification required</i>
F8	Provides for transfer value payments to be made between FRAs where a firefighter transfers from an English FRA to either a Welsh or Scottish FRA.	The Northern Ireland Fire Authority should be included in the rule.	<i>Agree to recommendation</i>
F7	(2) places a time limit of 12 months on written requests for a transfer value to be accepted.	The 12 month limit applied to club transfers only (as per NFPS). Transfers from non-club occupational pension schemes must be made in writing before the beginning of the period of one year ending with the date on which the member reaches normal retirement age. The provisions applying to club transfers were	<i>Agree to recommendation</i>

		more restrictive because of the favourable terms offered by the club rules.	
G1	(2) applies the earnings cap for those paying contributions after 31st May 1989	The earnings cap legislation (s. 590c of the ICTA) has been repealed but the cap preserved by the Modification of the Rules of Existing Schemes Regulations 2006 (SI 2006/No 364) until 2010/11. The mechanism for annual increases will need to be inserted as the Treasury will cease issuing the annual figure.	<i>Agree to recommendation</i>
G1	7(C) Provides for CPD to be disregarded for average pensionable pay purposes.	The reference to “any additional pension benefit” should actually be to “any CPD allowance”. CPD is paid as an APB and it is the actual allowance that has to be disregarded for APP purposes.	<i>Simplification of pensionable pay – CPD etc. and the removal of additional pension benefits, by combining benefits into a single pension</i>
G3	(5) allows a person who has elected to opt out to cancel the election and resume payment of contributions under (1).	The FPS is now a closed scheme and the provision has been made redundant by the amendment of Rule A3(5) by the Firefighters’ Pension Scheme (Amendment)(England) Order 2006. (5) to (8) are no longer required. A person cannot cancel an election.	<i>Agree to recommendation</i>
Part H	New rule required providing for review of medical opinion similar to Part 8 rule 3 of the NFPS	Insert rule providing for an IQMP to review an opinion in the light of new evidence.	<i>Agree to recommendation</i>
H3	Appeal to Crown Court.-	No longer required. Appeal would be to Ombudsman who will need to be satisfied that internal resolution procedures have been followed.	<i>Rationale behind the recommendation needed</i>
K4	Only gives a discretion on abatement if the person is re-employed as a firefighter.	Provision should follow Treasury guidance. In-service abatement should apply to re-employment in any capacity by any fire and rescue authority. Inter-service abatement (i.e., up to NPA of relevant scheme) should apply to re-employment with any public service employer.	<i>Publish or circulate Treasury guidance to provide clarity</i>
L4	(3) reference to rule L4B to be omitted.	Rule was removed to the FCS.	<i>Agree to recommendation</i>
Schedule 8, Part 1	References to “normal pension age” are unnecessary.	The table gives the split at which the % values change because of the “protected” normal pension age” for the	<i>Agree to recommendation</i>

		purchase of additional benefits. References to “normal pension age” therefore can be replaced by references to role.	
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ADDITIONAL COMMENTS:

Rule	Recommendation	Comments
G1	<p>Issue 1: The scheme should incorporate measures to mitigate adverse effects on the pension benefits built up by a member who moves from operational to non-operational duties or who steps down from a more senior role. Should firefighters' pensions be based on career average earnings? (paragraph 2.23)</p>	<p>CFOA considers that there should be protection incorporated within the new scheme in respect of staff undertaking a reduced role nearer retirement.</p> <p>In dealing with the possible redeployment of firefighters to lower paid posts, CFOA would agree with a proposal which, on retirement looks at:</p> <ul style="list-style-type: none"> ▪ The best pensionable earnings in the last 13 years or ▪ The two separate periods, if this produces a better award <p>as described in the consultation document.</p> <p>It is accepted that there needs to be equitable arrangements for dealing with firefighters who might have to be redeployed, nevertheless it is felt that the new scheme, as a whole, should be based on defined benefits and final salary.</p>
G1	<p>Issue 2: Inclusion of allowances</p>	<p>Inclusion of temporary promotion, LWA in core pay.</p>
G1	<p>Issue 3: To remove payments including LSI and CPD APB's which has caused a very large amount of work for administrators.</p>	
G6	<p>Issue 4: Additional Contributions</p>	<p>Currently a member who is unable to accrue maximum pensionable service, can elect to purchase additional service by entering into a contract with the fire authority. There is limited provision in respect of cancellation of the contract, i.e. financial hardship.</p> <p>With the minimum change to the age of retirement being raised to 55 and the provision for staff to continue in employment until 60, those members who have entered into contracts may now have the opportunity to accrue maximum pensionable service.</p> <p>This position may also apply to officers promoted above the rank of Station Officer.</p>
Schedule 9 Part 1 1(a)	<p>Issue 5: Medical Appeals</p>	<p>Additionally, under Part 1 of Schedule 9 of the PGS, paragraph 1(a) requires the member to state the grounds of the appeal. Appeals received by a FRA (and forwarded to the ODPM) often only state that the member "wishes to appeal" with no supporting evidence or medical reports being provided.</p> <p>Accordingly, CFOA would propose the following:-</p> <p>A requirement for the individual to provide details of the basis for the appeal, i.e.</p> <ul style="list-style-type: none"> - Medical evidence or - Other evidence establishing a prima facie case <p>CFOA also requests that provision be made in the</p>

	rules for the award of costs against an appellant, where the appeal is determined to be vexatious, frivolous or manifestly ill-founded. In one FRA, approximately twelve appeals per year fall into one or more of these categories, at a total cost to the FRA of £50,000 (each appeal currently costs £4,200 to convene)
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COMPENSATION SCHEME COMMENTS

Recommendation	Comments
<p>Issue 1: Injury Awards</p> <ul style="list-style-type: none"> ▪ Payments linked to age 	<p>CFOA considers that that Injury Awards, which are currently awarded for life, should be amended in line with the proposal for the new scheme insofar as the pension benefit award is limited by reference to state retirement age. The purpose of an injury award paid in addition to an ill-health pension is to recognise <u>loss of earning potential</u>. To pay this award beyond normal state retirement age is inconsistent with its intention.</p>
<p>Issue 2: Injury Awards</p> <ul style="list-style-type: none"> ▪ Bandings 	<p>It is felt the current banding system is too broad, and should be reviewed in respect of increasing the number of bands to align more accurately with a members earning assessment. Currently a retired member assessed at being 1% disabled receives the same award as a member who is assessed as being 25% disabled.</p> <p>The present banding system also omits a 0% for a case where the member is assessed and it is determined that there is no loss of earnings, yet the incapacity is attributable to service.</p> <p>CFOA actively seeks for the scheme to be amended to include a 0% assessment within the 1st banding. This would allow cases to be reviewed back to a nil- payment in a situation where a condition has improved and/or no financial hardship has been incurred.</p>
<p>Issue 3: Bandings</p>	<p>Calculation of awards for the amounts of the injury gratuity and the injury pension are by reference to the Table in Schedule 1 of the Compensation Scheme Order. Has consideration been given to the:</p> <ul style="list-style-type: none"> ○ Increasing the number of bands including a lower band of 0-10% ○ Removing the ability to receive an injury pension if earnings above previous rate ○ At age 65 injury award payments should be restricted to maximum pension the individual would have received rather than the potential earnings
<p>Issue 4: Definition of “Substantial Contribution” in relation to causation of qualifying injuries</p>	<p>The determination of an injury award is currently arrived at ‘on the balance of probability’ and that it has made a ‘substantial contribution’. CFOA</p>

	<p>considers the definition of ‘substantial contribution’ too vague in so far as awards have been made by appeal Boards where the contribution has been considered substantial on the basis that the injury has been ‘more than minor’.</p> <p>CFOA would seek for the rules to be tightened up and clear guidance/definition as to what ‘substantial’ means in order to advise fire authorities, employees and medical appeal boards.</p>
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<p>Issue 5: Apportionment</p>	<p>The FPS requires that an assessment in respect of a qualifying award be considered in respect of apportionment. CFOA would seek publication of clearer guidance in this matter.</p>
<p>Issue 6: Compensation Award</p>	<p>Has the issue of ‘double indemnity’ been addressed? For example, if an individual is compensated whilst in service for an injury and also receives an injury pension, should the injury pension not be off-set by the earlier award?</p>
<p>Issue 7: Schedule 5 Paragraph 9(2)</p>	<p>Schedule 5 Paragraph 9(2) indicates that FRA may require appellants to bear the board fees should the application be determined to be frivolous, vexatious or manifestly ill-founded. However, circumstances can arise that individuals withdraw their application prior to appeal board hearing. Has consideration been given to the chair of the board conducting a cursory review of the outlined case to apply an initial test against 9(2)(b)?</p>