

FIREFIGHTERS' PENSION COMMITTEE

NOTE OF THE 41st MEETING OF THE FIREFIGHTERS' PENSION COMMITTEE HELD ON 13th SEPTEMBER 2011 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 welcomed Francis Austin who was representing the Society of County Treasurers on behalf of Richard Hornby.

2. Note of the 40th meeting

- 2.1 Following written comments received from Paul Fuller of APFO the following insertions were made to the draft note:

- Recommendation 9, page 5, 4th bullet pt – insert “*There wasn’t a strong case for introducing tiered contribution rates. It was recognised that higher earners should expect to pay more but current proposals to increase contribution rates were too high*”;
- Recommendation 10, page 5, 3rd bullet pt – add “*Would strongly support Lord Hutton’s recommendation to abolish abatement*”;
- Paragraph 5.2, final bullet pt – insert “*The pension deficit reduction was a matter for the whole public sector and the application of a simple 3% increase to all public sector scheme members was unfair as it took no account of the current contribution levels. Even after recognising the difference between fast and slow accruing pension schemes, it was not right that members currently paying 11% rates should incur the same increases as those public sector members paying 1%-2% rates. Would want to see HM Treasury calculations that would support this.*”

- 2.2 The note of the 40th meeting was agreed, subject to the above changes.

3. Matters arising from the 40th FPC meeting – FPC(11)8

- 3.1 The Chairman introduced paper FPC(11)8 which updated members on the items discussed at the 39th meeting held on 13th April 2011.

Restricting Pension Tax Relief: Scheme Pays (paragraph 3.2)

- 3.2 The Department has been in discussion with HM Treasury, GAD and officials from other departments to determine how the Scheme Pays mechanism will be administered in practice. Although not yet confirmed, we anticipate that the mechanism will broadly follow the current Pension Sharing on Divorce

approach. The Department will bring forward proposals on the mechanism to the FPC and for consultation shortly.

Future arrangements for management of Committee (paragraph 3.4)

- 3.3 Andy Dark made reference to paragraph 3.13 of the note of the last meeting and said that the 'Terms of Reference' for the FPC were clear in that the committee had been established to be the usual channel for consulting on firefighter pensions. He said that he understood the FPC to be a consensual based committee; however, it was clear that DCLG was the only representative organisation that had requested the change in membership. He highlighted his concern about the lack of transparency of where UK wide consultation on firefighter pensions would take place and emphasised that at a time of introducing major reforms to public sector pensions the need for consulting stakeholders was crucial. The Chair responded by explaining that the previously established structure of the FPC membership may have been suitable for conducting business prior to devolution but that it must change to reflect new structures. He confirmed that DCLG had already consulted colleagues from the devolved administrations on the importance of maintaining communications and had agreed that they would continue to attend future meetings as observers.
- 3.4 Andy Dark made reference to section 34 of the Fire and Rescue Services Act 2004 (FRS 2004) which required DCLG to consult before introducing changes to firefighter pensions. He asked for DCLG to set out the legislative requirements for consulting on changes to the pension schemes. Des Prichard also requested that DCLG clarify the role of the FPC which would help determine the appropriate representative organisations that should be in attendance committee meetings.
- 3.5 The Chair explained that section 34 of the FRS 2004 required the Secretary of State to consult any person he considered appropriate and said that he was content that DCLG was satisfying the requirements of the legislation. He agreed to set out the legislative requirements for consulting on changes to firefighter pensions in England and to clarify the role of the FPC.

ACTION: DCLG to set out the legislative requirements for consulting on changes to firefighter pensions in England and to clarify the role of the FPC

- 3.6 Glyn Morgan said that it would be helpful to get clarification on the responsibilities of the devolved administrations and the consultation arrangements that they currently have in place.
- 3.7 Terry Crossley explained that it was not the responsibility of the DCLG Minister to advise on devolved matters. He said that all DCLG business relating to firefighter pension reforms related to the English schemes only and the SoS had no vires for any proposed reforms to apply to Scotland, Wales or Northern Ireland. DCLG had accepted the merits of staying in touch with the devolved administrations and that was the reason why it had been agreed for them to continue to attend future meetings.

- 3.8 Andy Dark made reference to the £33M-£37M yield that was expected to be generated from the proposed increases in employee contributions and asked whether the English schemes would be expected to make up any shortfall if the devolved administrations decided to increase their schemes' employee contributions by a lesser amount than England. The Chairman confirmed that the £33M-£37M only related to the English firefighter pension schemes.
- 3.9 Terry Crossley explained that the devolved administrations had been given a similar same task of making savings from their public service pensions as England, albeit a different level of savings. It was possible that there might not be uniformity between England and the devolved administrations which could ultimately result in different employee contribution tariffs.
- 3.10 Des Prichard made reference to the publication of the recent DCLG consultation paper on amendments to the FPS 1992 and asked whether it applied to the devolved administrations. The Chairman explained that any consultation paper issued by DCLG on changes to firefighter pensions could only apply to England. He said that DCLG actively communicates and shares information with colleagues in the devolved administrations but ultimately it was for their Ministers to decide the future of their own schemes.
- 3.11 Heather Robinson explained that feedback from the FPC was used to inform Northern Ireland (NI) policy formulation and that NI had historically mirrored the reforms in England. She said that NI Ministers had been actively discussing public sector pension reforms but had not yet decided NI's response. The Public Safety Minister had been briefed on the detail of the proposed changes in the FPS 1992 and changes to employee contribution rates.
- 3.12 Jenny Coltman confirmed that Scotland was in a similar position as Northern Ireland.
- 3.13 Kingsley Rees explained that the position in Wales mirrored that in NI and Scotland in that Welsh Ministers had yet to take decisions. Ministers would be returning from recess on 19th September and it was to be expected that different timescales would operate in the devolved administrations.
- 3.14 Ivan Walker made reference to the 2011 scheme valuation currently being undertaken for the firefighter pension schemes in England. He said that it was imperative to have robust costing data when determining the cost envelopes for each scheme and asked when the most recent scheme valuations had been undertaken in the devolved administrations. James Pepler of GAD confirmed that a valuation of the firefighter pension schemes in Wales was initiated but had been subsequently suspended following instructions from HM Treasury. A valuation exercise had been completed on the firefighter pension schemes in Scotland in 2009.

Firefighters' Pensions: Pensions Contributions/Hutton's final report (section 4)

- 3.15 The Chairman said that at the last meeting DCLG had agreed to consider asking GAD to provide illustrative examples to show the effects of CARE arrangements on a member's pension benefits. He explained that this work would be progressed when there was more clarity on the details of the Reference Scheme design.
- 3.16 The Chairman also confirmed that DCLG had received written comments from APFO and FOA on the 27 recommendations in Lord Hutton's final report and said that further written comments would be welcomed.

Draft FPS 1992 Amendment Order (section 6)

- 3.17 Please refer to section 6 of note.

4. Employee contributions – Year 1

- 4.1 The Chairman informed the committee that the formal consultation paper on the proposed increase in employee contribution rates in financial year 2012/13 for both schemes had been published on Friday 9th September. The consultation applied only to the pension scheme in England and closed on 2nd December 2011.
- 4.2 James Dalgleish confirmed that the Local Government Group would be having a meeting on 16th September to discuss the matter and would submit a formal response in due course.
- 4.3 Sean Starbuck confirmed that the FBU would also be submitting a formal response to the consultation but were currently awaiting clarification on the accrual rates for the Reference Scheme. He said that DCLG also appeared to be maintaining the assumption that 1% of members would choose to opt-out of scheme membership despite the findings of the independent survey carried out by YouGov which suggested significantly higher rates. He continued by saying that the introduction of tiered contribution rates according to pensionable pay would result in firefighters employed in the same role but in different parts of the country paying different contribution rates. Whilst reiterating the FBU's opposition to the proposal to introduce tiered contributions he suggested that any link between tiered contributions and firefighter roles would be more appropriate. The Chairman responded by explaining that both firefighter pension schemes were final salary schemes which meant that pensions were based on the member's final pensionable pay; it would, therefore, be more sensible to link contribution rates to pensionable pay received. With regards to opt-out rates, the 1% opt-out rate has been scrutinised by the Office of Budget Responsibility (OBR); DCLG would continue to review the issue of opt-out rates and parties are welcome to provide further evidence on opt-out rates.
- 4.4 Ivan Walker suggested that remaining in the scheme at higher contributions rates would represent a marginal decision for some members in that they could be financially better off by opting out of scheme membership. He asked

whether DCLG had considered commissioning an external company, such as KPMG, to look at the assumptions set by HM Treasury. The Chairman said that DCLG had not undertaken any work regarding this and explained that there were significant benefits of remaining a member of the scheme. He also informed members that the HM Treasury's analysis of their assumptions had been scrutinised by OBR and are publicly available.

- 4.5 Andy Dark highlighted his surprise at the volume of members considering opting out of scheme membership and suggested that DCLG should consider consulting scheme administrators. The Chairman confirmed that he was already corresponding with scheme administrators and had asked them to keep him updated on the issue of opt-out rates.
- 4.6 Des Prichard said that opt-out rates would be affected by two factors, namely the increase in contribution rates and the lack of certainty for members on the future structure of the pension scheme. He asked whether there was a way of identifying the level of opt-out that would unhinge the schemes. The Chairman said that it had been previously estimated that an opt-out rate of approximately 9% could put the scheme in a position whereby the savings realised would be less than the additional income generated as a result of a loss of both employee/employer contributions.
- 4.7 Tristan Ashby asked whether there was any information on the numbers of firefighters affected in each pay band. The Chairman agreed to provide the assumptions used for the number of members falling into each band.

ACTION: DCLG to provide the assumptions used for the number of members falling into each band.

- 4.8 Sean Starbuck made reference to the DCLG Press Notice that suggested that the current proposals to increase contribution rates would result with a typical firefighter in the NFPS 2006 paying £11 more a month. He suggested that a typical firefighter would be a member of the FPS 1992 who would end up paying significantly more than an additional £11 per month.

5. Employee contributions: alternatives – FPC(11)9

- 5.1 The Chairman introduced committee paper FPC(11)9. He said that DCLG had commissioned GAD to undertake an exercise to consider alternative options, and the associated costings, to increasing contribution rates in 2013/14 and 2014/15 in order to realise the full savings target of £33M - £37M from the firefighter pension schemes in England. He said that it was important to have considered all options available. He confirmed that no legal advice had been sought on any of the options identified.

[Secretary's Note: James Pepler provided a brief summary of the options identified in the GAD paper]

- 5.2 Ian Hayton highlighted that whilst the options identified might generate notional savings, the Revenue Support Grant was facing immediate reductions and, therefore, local authority budgets were being cut. He also

said that the options did not appear to take account of other costs associated with the potential deterioration of industrial relations.

- 5.3 Terry Crossley made reference to the LGPS and said that one option currently being considered by DCLG and Unions was the provision of reduced accrual rates in order to avoid increases in contribution rates. Members would have the option of retaining current accrual rates but would have to pay any associated increase in contribution rates. James Pepler pointed out that the LGPS was funded whereas the firefighter schemes were unfunded; he said that a reduction in the accrual rates to 1/100s would generate the required savings by 2014/15.
- 5.4 Ged Murphy said that HM Treasury had challenged schemes to think differently and suggested that further consideration should be given to the merits of providing reduced accrual rates.
- 5.5 Terry Crossley highlighted that all public sector schemes were being posed with a similar challenge to come up with innovative options of achieving savings in 2013/14 and 2014/15. He asked whether GAD had considered setting up cross-scheme arrangements to undertake this work. James Pepler said that he was not aware of any cross-scheme work being undertaken by GAD but would discuss the option with his colleagues and report back to the Committee.

ACTION: GAD to discuss with colleagues the option of undertaking cross-scheme work and report back to the FPC

- 5.6 The Chairman concluded by inviting further comments on GAD's alternative options paper and welcomed additional suggestions for consideration.

ACTION: Members invited further comments on GAD's alternative options paper and welcomed additional suggestions for consideration

6. Hutton Reforms – FPC(11)10

Process for setting cost ceilings

- 6.1 The Chairman explained that the Department's initial views on the proposed data, methodology and assumptions to be used to calculate cost ceilings had been submitted to, and were currently being considered, by HM Treasury. He said that HM Treasury would confirm scheme specific cost ceilings by end of September. It was expected that discussions on each specific scheme would continue throughout October with headline scheme designs being submitted to HM Treasury by end of October. Further detailed scheme specific discussions would continue for the remainder of 2011 with the final schemes coming into effect from April 2015.

Reference Scheme Design

- 6.2 Sean Starbuck made reference to the Normal Pension Age and asked whether consideration had been given to a firefighter's ability to continue in an operational capacity to age 60 years and the opportunities available for redeployment to non-operational posts. The Chairman explained that the Committee would have to consider the 'Reference Scheme' design when holding scheme specific discussions and considering a reduction in the normal pension age would ultimately mean that savings would have to be generated elsewhere.
- 6.3 Andy Dark suggested that the design of the scheme should be agreed prior to the setting of cost ceilings.
- 6.4 Des Prichard asked for assurances that accrued rights would be protected. The Chairman said that this assurance had been given by the Government and that costs associated with accrued rights would not be included in the costs ceilings.
- 6.5 Sean Starbuck stressed that it was difficult to comment on cost ceilings in the absence of confirmed accrual rates or a scheme valuation report. The Chairman said that whilst the valuation report was unlikely to be published this year, the data collated as part of the exercise was robust and would be used for the purposes of setting cost ceilings.
- 6.6 Ged Murphy asked whether there would be a cost ceiling for each of the employee and employer contribution rates and asked for clarification on the how the information was to be circulated. The Chairman said that it was his understanding that there would be an overall scheme cost ceiling and an employer cost ceiling. It wasn't yet clear how the information would be disseminated at the moment.
- 6.7 Des Prichard made reference to Lord Hutton's final report and suggested that an employee's state pension and occupational pension together should provide 75% of pre-retirement earnings. He said that before informed consideration could be given to the 'Reference Scheme' design, it would be imperative to clarify the proportion of pre-retirement earnings that any future firefighter's pension scheme would be expected to provide.

[Secretary's Note: The Pension Commission benchmark gross replacement rates for an employee earning a salary similar to that of a regular firefighter (i.e. £29,500 to £58,999) is 60%]

- 6.8 Ged Murphy made reference to the impending Judicial Review (JR) on the Government's decision to move to CPI as a means of index linking public sector pensions. He asked whether any consideration had been given to the costs if that challenge proved successful. The Chairman said that if the challenge was successful then it would be necessary to consider the particular judgement in detail before being able to draw any conclusions.

7. Firefighters' Pension Scheme 1992 – Amendment Order

- 7.1 Vickie Edwards provided a brief update on the 14 responses received so far. A significant number of the responses have been to express concerns about the proposals for abatement, or to indicate support for the proposals for contribution holidays for those acquiring 30 years' service prior to age 50. The Department had also received queries from 18 people asking for clarification about the proposals including abatement, contribution holidays, pensionable pay and their application in the Devolved Administrations. One third of the queries received were in relation to the wider proposals for pension reform.

8. Any Other Business

Statistical publication

- 8.1 The Chairman informed the committee that DCLG had formally published financial data relating to the Firefighter's Pension Top Up grant on 29th July. The data had been collected via the Departments online LOGASnet system as part of the financing arrangements for firefighter pensions and can be accessed via: [Firefighters' Pension Scheme Data](#) .Future publications would also include the workforce data which the Department would be collecting.

Auto-enrolment

- 8.2 Vickie Edwards outlined the duty on employers under the Pensions Act to automatically enrol all eligible staff into a pension scheme, and to re-enrol them every three years if they opt out. It is also the duty of employers to ensure that employees are aware of auto-enrolment and how they can opt out of the scheme. The Department is currently looking at what changes will be needed to the 2006 Scheme to allow authorities to comply with the Act, and will bring forward proposals to this Committee shortly.

Scheme Sanction Charge

- 8.3 Ged Murphy made reference to the increase in the FPS 1992 commutation factors in April. The increase in the factors had meant that it was possible for members to elect to take a lump sum that could breach the Pension Commencement Lump Sum limit, as set by HM Revenue and Customs, which would result in an unauthorised payment. The unauthorised payment would trigger a Scheme Sanction Charge (SSC) payable by the employer. He was currently undertaking a survey to ascertain the financial impact on FRAs and said that initial indications showed that the SSC represented an additional liability of approx. £2M per year – this was based on responses from 25 FRAs. He suggested that as the SSC was triggered by the behaviour of members and was, therefore, beyond the control of FRAs, it should be considered as eligible expenditure for the purposes of the Pensions Top Up grant. He confirmed that he would provide a committee paper on the SSC for the next meeting.

ACTION: Ged Murphy to provide a committee paper on the SSC for the next FPC meeting

Community Discussion Forum

- 8.4 Des Prichard made reference to the community discussion forum that had been launched by DCLG and asked for clarification on its purpose. The Chairman explained that the forum was to provide a facility whereby administrators and HR managers can communicate and provide peer support with colleagues in other FRAs. DCLG would also utilise the forum as an additional means of disseminating information to business partners.

9. Dates of future meetings

26 October (10am)

3 November (10am) - cancelled

18 January 2012 (10am)

5 April 2012 (10am)

4 July 2012 (10am)

3 October 2012 (10am)

DCLG

September 2011

Attendees

| | |
|-----------------------------|----------------------|
| Andrew Cornelius (Chairman) | DCLG |
| Terry Crossley | DCLG |
| Vickie Edwards | DCLG |
| Shumina Faruk | DCLG |
| Anthony Mooney (Secretary) | DCLG |
| Ged Murphy | LGA |
| James Dalgleish | LGA |
| Francis Austin | SCT |
| James Pepler | GAD |
| Alex Wood | GAD |
| Jo Barlow | GMFRS |
| Jenny Coltman | SPPA |
| Heather Robinson | DHSSPSNI |
| Kingsley Rees | Welsh Assembly |
| Andy Dark | FBU |
| Sean Starbuck | FBU |
| Ivan Walker | Thompsons Solicitors |
| Ian Hayton | CFOA |
| Des Prichard | APFO |
| Glyn Morgan | FOA |
| Craig Thompson | FOA |
| John Barton | RFU |
| Tristan Ashby | RFU |

Apologies

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| Richard Hornby | SCT |
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