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AN INJURY TO ONE IS AN INJURY TO ALL

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TO: ALL MEMBERS

Dear Brother/Sister,

REPORT OF ISSUES DISCUSSED AT 34TH FIREFIGHTERS' PENSION COMMITTEE HELD ON 15TH MARCH 2010

The intention of this circular is to draw your attention to a number of important discussions relating to the Firefighters' Pension Scheme (FPS). These discussions have taken place through the Firefighters' Pension Committee (FPC). The FPC is convened by the Department for Communities and Local Government (CLG) and therefore does not automatically make provision for Scotland, Wales and Northern Ireland. However, representatives from each of these administrations do attend the FPC and changes to FPC provision in England are generally followed elsewhere.

At the Firefighters' Pension Committee (FPC) held on 15th March 2010 four papers were presented by the Department for Communities and Local Government (CLG) that were discussed in detail at the Executive Council meeting held on 16th March 2010.

These papers presented to the FPC for discussion and comments were as follows:

1. Consultation on Pensionable pay
2. Options for the Future
3. Cap and Share
4. Age Discrimination

(These documents are available on the FBU website (www.fbu.org.uk) for your information and it is important that the contents of this circular are read in full in conjunction with the papers).

Consultation on Pensionable Pay

CLG presented this paper to the FPC, which outlined responses from stakeholders to Firefighters' Pension Scheme Circular 11/2009.

The FBU had previously raised concern at how some elements of pay were being treated inconsistently with regard to their pensionability. An example of this was raised by the FBU whereby some FRAs were introducing allowances for new duty systems which were then being disputed by them at a later date.

FPSC 11/2009 requested comments on several proposals that had previously been discussed at the FPC on 18th November 2009. The options requiring responses were;

Option 1: Introduce an approvals process, which would mean that CLG would have to approve in advance any agreement to count an additional element of pay as pensionable in order to mitigate the cost implications for the schemes.

Option 2: Adopt Additional Pension Benefit (APB) arrangements similar to those introduced in 2007 for CPD payments, so that FRAs could make agreements to count elements of pay as pensionable without prior approval.

All stakeholders rejected the first option.

Specific proposals for option 2:

- (i) FRAs should have discretion to determine whether an allowance or emolument is pensionable;
- (ii) Additional Pension Benefits (APB) arrangements should apply to any pensionable allowances or emoluments which an FRA determines should be pensionable;
- (iii) a member of the FPS or NFPS in receipt of any allowance or emolument which has been treated as pensionable before 18 November 2009 should be entitled to have this regarded as part of pensionable pay, not just for periods of service up to the date of the amendment to the rules but also into the future;
- (iv) pension benefits accrued on pensionable allowances or emoluments should be protected;

The Consultation on pensionable pay paper was a report on the responses received (this document annex A is also available on the FBU website www.fbu.org.uk).

The FBU's response was that it was a matter for the FBU and the employers nationally, or the FBU and individual FRAs at local level, to decide what was pensionable and what was not. It is not up to the CLG to decide what is or is not pensionable as spelled in the Grey Book. CLG should not be permitted to override the Grey Book. Specifically, both London Weighting allowance and Flexible Duty Allowance must continue to be pensionable in the current form. In the Union's opinion, anything that is within the Grey Book should only be amended at the National Joint Council.

The FBU view that the FPC was not the appropriate forum to make any decision on Flexible Duty Allowance was argued by the FBU and supported by other stakeholders present (including some employers' representatives). Following several other concerns raised by the FBU this paper was *withdrawn* and the FPC chair confirmed that the proposals outlined in the conclusion would not be actioned at this stage.

FPSC 11/2009 also suggested that in the future members should be permitted to purchase additional pension (i.e. measured in pounds per annum) rather than purchasing additional service. The effect of the change is greater certainty for members as to what they are buying and the Union broadly supports this.

Options for the Future

CLG introduced this paper and suggested that members of the FPC should say which options were palatable and which ones were not.

The FBU responded confirming that until further information was made available, any discussion is premature. The full consequences of introducing the New Firefighters' Pension Scheme (NFPS) and the changes in the ill health process since 2008 have not been considered in the figures used in this paper (which were based on a valuation as at March 2007). All the other options suggested would need to be explained fully including any proposed savings to the scheme highlighted before any decisions on them being acceptable or not could be taken.

The FBU suggested that this work was undertaken before any further options paper as controversial as this was put before the committee for its consideration.

After a debate on this suggestion CLG reluctantly agreed to provide further information to a future FPC.

The CLG made it plain however that they fully expect major changes will need to be made to the FPS, and it is clear that their preferred option would be to close the FPS altogether and move all members into the NFPS.

Cap and Share

Cap and share is a method that is being adopted in a number of public sector schemes to reduce the risk of pension cost increases to the employers. In brief, if actuarial factors show that the cost of the scheme has increased then members have to share the cost of the increase. Once the employers' share reaches a cap determined by the Treasury then members have to meet the entire increased cost. Members share the cost or bear the cost by increasing contributions or taking a cut in their benefits.

CLG introduced this paper and explained that Cap and Share would be imposed on the firefighters pension schemes following their next valuation in 2011. That valuation would be used to examine how the schemes have fared since 2007. Changes to assumed rates of inflation, pay increases, life expectancy etc will be costed and subjected to the cap and share arrangement. Falls in the stock market will not be subject to this regime.

The FBU outlined that there was much more detail required on this issue before any decisions could be made and highlighted that the risk sharing element of the decision would have to be considered in great detail especially in the 1992 FPS due to it being a closed scheme.

Age Discrimination

CLG informed the committee (FPC) they had taken legal advice following a challenge raised on potential age discrimination concerning firefighters who were employed and joined the FPS age 18-20 years old and informed the FPC that they would now not be defending their position legally. They had been advised that there was no legal obligation to allow members to retire on pension once they have built up the maximum 30 years' service, or to allow them to build up more than 30 years' service, but they should not have to pay for two "dead" years during which they pay contributions for no benefit.

CLG's solution is that anyone who joined the Firefighters' Pension Scheme age 18-20 years old will not be required to pay pension contributions from the point at which they reach 30 years' reckonable service until the point they reach age 50. At age 50 they can retire and receive a pension, or, with the permission of the FRA, carry on as a member of the NFPS and abate their FPS pension, or to continue and resume making pension contributions.

This entitlement would be backdated to 1st December 2006 when the Age Discrimination Regulations came into effect. As a result, a refund of contributions will be made to affected FPS members. The FBU argued that interest should be added but the CLG will resist that.

CLG have also confirmed that guidance would soon be issued to ensure that relevant contributions from current affected members would cease in line with this decision. The FPS will also undergo the necessary amendments to rule G2 to reflect this decision.

As previously feared, the CLG is using age discrimination legislation as one of the reasons for saying that the FPS must be amended for the future

What Next?

Changes to pensionable pay, the cap and share proposals, and the options for change paper are all clearly interlinked. Officials and members will be aware that the papers presented to the 34th Firefighters' Pension Committee will need to be discussed in much greater detail at committees at all levels of the union before any decisions are taken. The FBU has raised concerns about several issues within these four papers and has demanded that more information is provided substantiating the claims of CLG and to provide evidence of savings that the NFPS will provide in the future.
(These verbal requests for detailed information will be followed up in writing).

The NFPS was introduced as a cost-saving scheme and the effect of its introduction have not yet been measured. CLG are adamant however that whatever the result of the next general election, substantial further savings will have to be made. Their attitude is that because the FPS is more expensive than the NFPS, it is the FPS that will be the target for savings.

The Executive Council will receive updates and advice on any of these issues as they develop. Officials and members will be kept fully updated using all usual routes as more details emerge.

Please be assured that the FBU will continue to defend firefighters' pension schemes with the same commitment that it always has. In past years the FBU has led the campaign to ensure that firefighters' pensions are protected whether it is for ill health or commutation factors. Others organisations may voice their concerns but the FBU is the only one who actually takes action for its members.

Yours fraternally,



MATT WRACK
General Secretary