

The Fire Officers' Association
Proposals for Protection of Pension Benefits with the Firefighters' Pension Scheme
December 2005

As suggested at FPC meetings and in submissions to the Committee, the FOA firmly believes that there is a need to provide pension protection for staff whose income, for various reasons, reduces during the latter stages of their service. Some of the comments/suggestions repeat those previously offered by this Association as it is hoped that they will help consideration of the wider application of any provision made.

The split pension provision likely to be incorporated into the new Firefighters Pension Scheme is welcomed as a means to provide protection that appears to accommodate a range of circumstances that may lead to reduced pensionable pay. However, similar protection is more urgently required for members of the existing Scheme as in the near future. Some Scheme members are likely to find that they are to retire with a reduced pension, based on recent service at a reduced rate of pay (and consequently, pension contributions) that does not reflect the level of income enjoyed for a significant proportion of their service.

When considering the introduction of protection arrangements, we ask that the under-noted scenarios be taken into account: -

a. Rank to role assimilation

Whilst pay protection arrangements have been agreed at national level for a 3-year period after the date of assimilation, there will be Scheme members for who continued protection cannot be accommodated through promotion or transfer. Indications are that very few will be in such a position but, nevertheless, we feel that some safeguard is required. It would not be fair that the pension of persons affected do not take account of service prior to their final three years' when performing duties at a higher rate of pay and contribution rate, often for a substantial proportion of their service.

b. Voluntary step-down or re-deployment

We firmly believe that there is a need to protect an individual's pension rights in the event of their redeployment into a lower paid post as an alternative to ill-health retirement. However, we consider that posts should not be created in order to prevent ill-health retirement. In redeploying staff there should a clear benefit to the service AND the individual should be in agreement.

There is, of course, some disadvantage to those with more than 26.5 years service who would lose the ill-health pension enhancement but it could be argued that the retention of a full salary instead of two-thirds pay offsets this. Whilst 'early' retirement might be nice, we can accept that it is not effective use of public money to pay someone for sitting at home when they might still be productive in a non-operational role. It is reassuring that the ODPM recognises the need to protect the level of pensionable pay for people who have been paid as operational staff for the majority of their career. It would be somewhat unfair to reduce pension benefits where a person paid at a lower rate during their final 3 years service.

From the options outlined in the paper, we favour the 'Certificate of Protection of Benefits' option.

The employment issue of reduced pay for non-operational roles could particularly affect Flexible Duty System officers. Protection of pension rights should overcome pension concerns being expressed by members.

It would be helpful for the ODPM to emphasise the assurance that the intent of the recent scheme revision is not to allow fire authorities to move people to lower paid roles

c. Long-term temporary promotion

Although not linked to nay national pay agreement, many members of the FPS have temporarily performed duties at a higher rank/role for prolonged periods during which pension contributions have been paid at a level commensurate with their temporary post. Whilst there are associated issues surrounding abuse of staff in terms of using temporary promotion to fill posts that that should become established, there are situations where a period of temporary appointment ends before the level of

income can be counted for pension purposes. On some occasions such appointments may have lasted for several years and members are placed in a similar situation to those who suffer as a result of assimilation or redeployment.

It is accepted that short periods of temporary promotion do not represent a significant proportion on overall service but for periods that extend to several years (the longest we are aware of is seven) it is unfair that payment of higher contributions are not reflected in an individual's pension. It is requested that pension protection be available to members of the scheme who occupy a temporary post for a significant portion of their service – 3 or 4 years of the last 10 perhaps being set as the qualifying criterion. We would not regard this unreasonable when we regularly see people substantiated at a higher rank/role within their final 3 years of service, thereby receiving a higher pension in return for a relatively short period of paying pension contributions on their higher salary.

Nature of the protection

Introduction of a split pension provision would provide appropriate protection but because of potential delays in addressing amendments to the existing scheme, people may lose out unless the provision is back-dated to a point such as the rank to role assimilation date, end of protected pay period or the April 1st 2006 date of change to the taxation regime.

Further discussion on detail and administration of the requested provision would be needed before implementation.

Papers FPC (04)02 and (05)01 refer to options for protection arrangements and, as previously intimated, the FOA favours the Certificate of Protection of Benefits approach.

FPC (04)02: Protection of Pensionable Pay

The recent amendments to the Firefighters' Pension Scheme allow Fire and Rescue Authorities to consider whether a firefighter who is permanently unfit for firefighting duties would be suitable for any other duties (appropriate to the role) before deciding whether ill-health retirement should apply.

We have received a number of questions concerning the impact on pensions which suggests that FRAs may be considering re-deployment to posts which attract lower rates of pay than those for firefighting. Whether FRAs can do this is a matter relating to contract and employment law and outside the pension scheme. However, we need to consider the possible impact upon a person's pension entitlement.

We have identified three possible options for protecting pensionable pay and pensions which may be considered. These are likely to require amendment to the current scheme:

- The current Inland Revenue definition of final remuneration may allow use of the best of the last 5 years in place of the current 3 years. This would offer some protection to those firefighters who are close to ordinary retirement. The simplification of tax rules from April 2006 may offer more scope.*
- A "step down" provision, as used by some other public sector schemes could be considered. Pension due on total service for each rate of pay could be calculated on a pro-rata basis with the total of the combined pensions being paid at normal retirement age (rather than deferred to age 60)*
- A certificate of protection of pension benefits (as currently allowed by the Local Government Pension Scheme) could be issued by employers. Under LGPS rules, an employee whose pay is permanently reduced (or restricted) by their employer may elect for a certificate which is issued at the discretion of the Authority. The certificate protects the value of the benefits by allowing them to be calculated by reference to a final pay figure notified at retirement and then uprated by pensions increases which have occurred since the day after the "final pay period". The "final pay period" protected by the certificate can be either a) any one of the last five years of membership or b) the annual average of any three consecutive years falling within the span of 13 years' membership before the date of leaving.*

ODPM's preferred option would be the certificate of protection and we will come forward with proposals. The Committee is invited to comment.

FPC (05) 01

Protection of Pensionable Pay - We have proposed an amendment to the FPS to protect members' pensionable pay if they are transferred to lower paid posts as an alternative to ill-health retirement. A firefighter would be able to decide whether the pension should be calculated using either; (a) the best year's pay from the last 5 years of pensionable service; or (b) the best 3 year average salary from the last 13 years of pensionable service.

Self-limitation of benefit

The longer the period of step-back, the lower the benefit and much would depend upon the relative pay differential between the higher salary and that for the role performed during the final three years. Index linking would maintain the value to some extent but overall salary increases would negate any benefit were the step-back towards the most distant end of the allowable period.