

**Hampshire Fire and Rescue Authority**

**Finance and General Purposes Committee**

**Item: 9**

**29 October 2013**

**Retained firefighters proposed pension settlement**

**Report by the Chief Officer**

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**1 Summary**

- 1.1 Following the introduction of the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 (“the Part Time Workers Regulations”), retained firefighters, supported by their representative bodies, made a claim for equal treatment with whole-time regular firefighters on their terms and conditions of service. Critically this included pension benefits. After a series of tribunals and appeals commencing in 2002 and a House of Lords judgement, the Secretary of State for Communities and Local Government has now reached agreement with the Fire Brigades Union (FBU) on the proposed terms of access to a pension scheme for eligible retained firefighters in England. A consultation document on the implementation of the proposed scheme was issued by the Secretary of State.
- 1.2 Any persons eligible to join the pension scheme will be entitled to elect to pay their proportion of the historic contributions to count their retained service between 1 July 2000 and 5 April 2006 as part of their pensionable service. The member can choose the date on which they enter the scheme within this period. In unfunded public service pension schemes, such as the Firefighters’ Pension Schemes, there is no pot of assets which can be valued to determine if sufficient contributions have been paid to meet the cost of rights already accrued. It is currently anticipated that the additional costs of backdating and running the modified scheme will be funded through enhanced employer contributions following a revaluation of the scheme planned for 2016. Fire and Rescue Authorities (FRAs) nationally are expected to cover these costs through their employer contributions.

**2 Recommendation**

- 2.1 The Finance and General Purposes Committee is invited to note the details of the proposed scheme, the submission in response to the Secretary of State’s consultation document and the preliminary estimates of costs.

### 3 Introduction and background

3.1 Individuals that were employed as retained firefighters between 1 July 2000 and 5 April 2006 are eligible to purchase pension rights under the terms of the new pension arrangements. Membership will be open to all such eligible persons. They do not need to have made an application to an employment tribunal in order to qualify. The Department for Communities and Local Government (DCLG) and FBU have concluded that it was preferable to provide access through a 'modified' section of the New Firefighters' Pension Scheme (England) 2006 as opposed to modifying the Firefighters' Pension Scheme 1992. This is because the New Firefighters' Pension Scheme 2006 already makes legislative provision for retained firefighters and is the more modern scheme. The normal pension age of the modified scheme will be 55 years.

3.2 There are three membership groups proposed in the modified scheme:

**Special firefighter member**- includes firefighters who were employed for part or all of the reference period and remain employed as firefighters now.

**Special deferred member** - includes firefighters who were employed for part or all of the reference period who left employment on a date prior to making an election to join the modified scheme, and who are not entitled to immediate payment of their modified scheme pension on this date.

**Special pensioner member** includes firefighters who were employed for part or all of the reference period who would become eligible to receive their pension immediately on joining the new scheme.

3.3 Any persons eligible to join the modified scheme will be entitled to elect to pay the historic contributions to count their retained service during the limited period as part of their pensionable service. The member can choose the date on which they enter the scheme within this period. Payments for historic contributions may be made by lump sum, periodical contributions or by commuted lump sum (topped up if necessary). The methods of payment available to individuals will be dictated to some extent by the type of membership being purchased. The cost of purchasing past service pension will be determined in accordance with guidance provided by the Scheme Actuary.

3.4 Any special firefighter member will be able to continue their membership of the modified scheme provided they remain in continuous eligible pensionable service and do not opt out of the scheme's membership. Special firefighter members will have the option to transfer pension benefits from other pension schemes into their special membership provided that the member has not already had the option to transfer in such service as a member of the standard 2006 scheme following the options exercise in 2007.

### 4 Death Grant

4.1 The surviving spouse or civil partner of any person who was employed as a retained firefighter on or after the 1 July 2000 and continued in that employment

until they died on or before the 5 April 2006, will be entitled to receive the payment of a death grant equal to 2.5 times the deceased firefighter's pensionable pay in their last year of service, as determined by the fire and rescue authority. As with current death grant payments, this payment would be paid from the fire and rescue authority's pension account and will only extend to married spouses and civil partners.

## **5 Implementation**

- 5.1 We currently have no definitive date for these proposals to be finalised and brought into effect. The timeline for implementation of the proposal has been included in the consultation document. This lays out the required duration for the various offers and responses. The total period given for completion of the exercise is 16 months.

## **6 Risk analysis**

- 6.1 Uncertainties over the level of costs of this settlement and the potential effects when combined with other likely future budget pressures represent a potential risk to HFRS. Budgetary provision has been made on the basis of our worst-case estimate outlined in section 10.2 below. This can be reviewed and refined as more detail becomes available.

## **7 People Impact Assessment**

- 7.1 The DCLG have not prepared a people impact assessment as part of the consultation process. The final outcomes of the settlement proposed will be applied to all eligible staff employed during in the reference period. On that basis there are no adverse impacts are anticipated.
- 7.2 The proposals in this report are considered compatible with the provisions of the equality and human rights legislation.

## **8 Resource implications**

### **8.1 Human Resources**

Additional staffing resources may to be required under the proposals outlined in the consultation document to cover the significant administrative workload involved in the operation of the processes required under the proposal. These will be examined once more detail becomes available.

### **8.2 Financial Implications**

The potential costs of the pension settlement are to be split, with the employee contributing their back-dated element and the employers covering the on-going increase in pension contribution costs, together with an element to cover the back dated employer contributions. It is currently anticipated that these latter costs of backdating and running the modified scheme will be funded through enhanced employer contributions following a revaluation of the scheme. Our current worst

case estimate of the additional costs to HFRS resulting from this proposal is £1m per annum on-going. This figure would include both the increase in employers contributions (through increased scheme membership), and the additional employer contribution required to fund the back-dated service. Estimating the cost is very difficult as there are a number of variables and the election to buy back-dated pension service is optional. Covering all potential costs is considered the most prudent approach at this stage of the exercise.

The Government announced that public service pension schemes will undertake scheme valuations as at 31 March 2012, with subsequent valuations to take place every four years. In the unfunded public service pension schemes, such as the Firefighters' Pension Schemes, there is no pot of assets which can be valued to determine if sufficient contributions have been paid to meet the cost of rights already accrued. Instead the valuation is done by creating, and tracking the value of a notional fund. The approach taken is called Superannuation Contributions Adjusted for Past Experience (SCAPE), and will be used to assess any increase in employer contribution required to fund the back-dated service.

The potential cost will be built into the Medium Term Financial Plan as an additional spending pressure and updated as better information becomes available.

## **9 Consultation**

- 9.1 A consultation document was issued by the DCLG running for 6 weeks, from 23 July 2013 to 3 September 2013, detailing the proposed terms of access to a pension scheme for retained firefighters. The HFRS response to this consultation is attached as Appendix A. The intention of the consultation is to provide retained firefighters with comparable pension rights to those enjoyed by regular firefighters employed during the period 1 July 2000 and 5 April 2006.
- 9.2 The feedback received nationally from the consultation exercise is currently being analysed by the Department for Communities and Local Government.

## **10 Conclusion**

- 10.1 The pension changes required when this legislation is finalised are mandatory. HFRS have made prudent financial projections for the on-going costs and included these in our financial planning assumptions for the future. There will be a review and adjustment of these once the final details of the scheme are published and the actual scale of uptake by RDS staff is known.

## **11 Background papers**

- 11.1 The following documents disclose the facts or matters on which this report, or an important part of it, is based and has been relied upon to a material extent in the preparation of the report: None

Note: The list excludes: (1) published works; and (2) documents that disclose exempt or confidential information defined in the Act.

**Consultation response from Hampshire Fire and Rescue Service regarding the proposed Retained fire-fighters pension settlement.**

Key concerns we would raise are as follows:

- The potential initial and on-going costs of the proposed settlement are significant and are not currently funded in our baseline budget. They have never been included within the grant funding formula. This is a significant new burden which could not be met by FRSs without having to cut front line services, particularly given the cuts in funding to date and those anticipated in the near future. We believe that the funds to pay for the costs of the proposal should be borne centrally. We would like the Government to produce an appropriate financial impact assessment which clearly sets out the assessment of the cost of this proposal and the way in which the Government expects this additional financial burden to be met
- Government should set out its plans to assist Fire and Rescue Services nationally in meeting any costs arising from this settlement, and particularly those with significant numbers of RDS staff.
- Fire and Rescue Services nationally have relied on the DCLG for many years through their Chairmanship of the National Pensions Committee. As it now appears that inappropriate advice and guidance has been given it would seem only equitable that the DCLG accept they hold significant responsibility for resolving this matter with the Fire and Rescue Authorities. This is particularly in respect of the new financial burden that this has created.
- Holding this consultation over the minimum six-week period, which encompassed peak summer-holiday absences, does not allow for a detailed consideration of a proposal of this complexity or time for an adequate, full assessment of the potential impacts. This is particularly the case with for the elected members of Authorities.
- The subsequent timeline for communicating and settling claims is felt to be unrealistic and over optimistic. This is based on our previous recent experience with the process administered through Popularis, which in comparison had far fewer variables and was far more straightforward.
- The numerous variables and options detailed in this proposal will place a very significant administration demand on all Services. Given the cuts in capacity already delivered by Services, this could easily prove unmanageable or create further costs through the buying-in of expensive temporary resources to undertake this work. This new burden should also be recognised and funded by Government.

- The proposal will include more individual RDS staff than were eligible under the Popularis exercise so the groundwork completed for that cannot be relied upon. New data sets will need to be compiled based on the new eligibility criteria and what historical records are available locally.
- The difficulty of tracing and communicating with ex-RDS employees (as with Popularis letters) will remain a significant local issue. It will require a considerable amount of time to 'make all reasonable efforts' to locate and inform eligible past employees. 'Moving away' is one of the main reasons for RDS staff leaving the Service and there is no obligation or reasonable expectation that they should keep Services informed of their whereabouts.
- There is a meeting of the Comprehensive Spending Review Group within CFOA to discuss this issue in some depth on 4 September 2013. Hampshire Fire and Rescue Service will be represented at that meeting. Although it is accepted this is beyond the period of consultation, the meeting is expected to provide some additional input on our return which we hope you will consider. That may of course alter the assumptions made in submitting this response to the consultation.