

Fire Officers' Association

Response to Scottish Government Consultation on Firefighters' Pension Scheme: Employee Contribution Increases

November 2011

1. Introduction

- 1.1 The Fire Officers' Association is keen to maintain a UK-wide approach to fire and rescue service pensions and this response mirrors that which will be submitted to the Department for Communities and Local Government in respect of the English consultation on proposed increases to employee contributions for members of the 1992 and 2006 Firefighters' Pension Schemes.
- 1.2 It is recognised that the proposed increases in Scotland result from the Westminster Government's fiscal strategy and that the Scottish Government opposes the approach towards public sector pension reform. It is also acknowledged that the Scottish Government is in an invidious position where the Scottish block grant will be cut by an amount equivalent to the expected revenue return from increasing employee pension contributions; this being irrespective of any desire to apply a different approach in Scotland.
- 1.3 We do not welcome the prospect of higher employee contribution rates as any increase will compound the reduction in the 'real terms' value of people's income resulting from pressures such as a pay freeze and inflation. However, if Government is minded to impose an increase we consider that active protestation or industrial action would not be in the interest of public safety and probably counter-productive for the fire and rescue service. That said, we cannot guarantee our members' acceptance of the situation but they are more likely to tolerate increases if they perceive that increases are being applied fairly across the public sector. From our understanding of the position, this is currently not the case.
- 1.4 The Independent Public Services Pensions Commission (IPSPC) report acknowledged that uniformed services' pension schemes have been subject to reform and that other schemes, such as the Judicial Pension Scheme, have not been significantly modernised at all.
- 1.5 The report also acknowledges the extent of reform across several public sector pension schemes and recognises that employee contributions for the fire and rescue service remain significantly higher than most other schemes even with the lower level of 8.5% introduced for the 2006 Firefighters' Scheme. For the majority of firefighters (who are members of the 1992 Scheme) the contribution rate remains at the much higher level of 11%.
- 1.6 Even after account is taken of the lower retirement ages for firefighters, we consider that they are currently paying a greater proportion of scheme costs than members of unreformed pension schemes. On that basis, we contend that it would be unfair to apply a 3.2% increase across the whole public sector and it is considered that this would undermine the principle of fairness as set out in the IPSPC's terms of reference.
- 1.7 Whilst some work would be needed to calculate each scheme's increase, this would be beneficial in terms of allowing Government to show that contributions increases have been calculated to be fair and proportionate rather than applied as a 'broad brush' approach.
- 1.8 We have called upon the Westminster Government to carry out an assessment of each public sector pension scheme to identify the relative proportion of overall costs met by existing contribution rates. This should allow increases to be applied in a manner that brings about a more equitable situation where members of each scheme pay a comparable proportion of the overall costs for that scheme. Having first made this point almost a year ago, it appears unlikely that HM Treasury is willing to alter its position on contribution increases. However, their delay in announcing cost ceilings for fire pensions is taken as a positive indication that consideration is being given to the nature of firefighters' work. It is hoped that any concessions on the overall cost of fire pensions will provide scope to negotiate an acceptable balance between employee costs and scheme benefits.

- 1.9 As we have said, on several occasions previously, we consider that a pension scheme is akin to a contract of employment and many firefighters did not have the option whether to join the Firefighters' Pension Scheme. We consider it disgraceful that Scheme members no longer have any certainty about the cost of pension contributions, the date of their retirement or the level of benefits that they can expect to receive at retirement.
- 1.10 Most people begin to plan for retirement many years ahead of their anticipated retirement date. The proposed contributions increase will force people to balance the merits of remaining in a fire pension scheme against, it appears, the prospect of working longer and paying more for reduced benefits.
- 1.11 We appreciate the inclusion of the Scottish Government's position at section 3 of the consultation document since this very much aligns with our own opinion.
- 1.12 Furthermore, it is particularly galling for our members to hear UK Government Ministers say "we are all in this together" when MP's pensions did not feature in the Hutton review and, despite suggestions that MPs should face contribution increases it appears that no action is being taken. Surely, if it is necessary to reduce the cost of other public sector pensions then there is a similar need to reduce the cost of MPs' pensions.

2. Background

- 2.1 The methodology being applied to pension reform is, we believe, less than transparent as members of the fire pension schemes are not able to carry out a cost/benefit analysis based on the information available at the time of consulting on pension contributions for 2012 to 2013. Whilst many Scheme members might be willing to pay more in order to preserve current benefits they are not in a position to assess the full pension package that will be available to them beyond 2015.
- 2.2 From what is known about the Government's overall proposals for reform, people realise that, from 2015, they are likely to be paying considerably more in contributions within a revised fire pension scheme for a set of benefits likely to be markedly less valuable than the level of benefits currently provided. It is, therefore, easy to understand why people are angry about the Government's proposals.
- 2.3 It is also noted that this consultation only deals with 2012 to 2013 when it is highly likely that further increases will be required between 2013 and 2015 if the Treasury's savings target is to be met.
- 2.4 We would not expect the FRS to receive any concession in isolation of other areas of the public sector and accept that if there is to be pain, it should be applied fairly across the public sector (accepting the concession for Armed Forces). However, we do not consider the application of an average 3.2% increase across public services to be fair and we reiterate concerns about the Government's failure to take account of the current ratio of contributions to benefits across public sector pension schemes.
- 2.5 Had such an exercise been undertaken before determining the amount to be saved by each scheme, it would have been possible to apply bespoke increases that bring cost / benefit ratios into alignment. With some preparatory work by Government, it should have been possible to examine various factors within current schemes and produce a value comparator that takes different elements of each scheme into account.
- 2.6 While fire and police pension schemes' benefits may appear generous, it seems to have been forgotten that some 11% of salary is paid towards the provision of retirement benefits. This contribution rate is already much higher than the majority of other public and private sector pension schemes and the imposition of increases that fail to take account of this fact is perceived as punitive by the majority of fire pension scheme members.
- 2.7 With regard to assumptions relating to longevity and the ability of firefighters to continue working beyond age 55, we still dispute the longevity figures application to the fire and rescue service (as we did during development of the 2006 Firefighters Pension Scheme). In the absence of FRS specific data, the accuracy of assumptions cannot be tested or challenged robustly and it is therefore, necessary to reluctantly accept the Government Actuary's Department (GAD)

assumptions. Only in 25 to 30 years time will it be possible to say 'we told you so' if GAD assumptions prove to be wrong and we see a significant increase in the level of ill-health retirement for firefighters aged over 55. Additionally, we (sadly) doubt that firefighters' life expectancy will be in line with that of other local government workers due to the nature and stresses of active duties in the FRS.

- 2.8 Not unreasonably, firefighters joining a fire pension scheme believed that they were entering a form of contractual agreement that would secure a known benefits package at the time of retirement for a known cost. Now that the terms of this 'contract' are being unilaterally varied there is a strong sense that their pension has been mis-sold.

3. Principles

- 3.1 Provisions for the protection of low earners have little bearing on the fire and rescue service where, few, if any, operational staff earn less than £15,000 per annum.
- 3.2 The last paragraph of Section 3 refers to the key issue of tiered contributions which present a major concern for the majority of Fire Officers' Association members. Whilst original DCLG suggestions for the introduction of tiered contributions have been modified for this consultation paper, we retain concerns about the approach. We welcome the wider range of proposed tiering increments but it still seems inherently unfair to apply the relevant contribution rate for a particular income level to a person's entire salary.
- 3.3 We contend that there is no need to introduce tiered contributions at all, since those earning more already pay more. The principle of applying a common percentage contribution rate to all members of a pension scheme ensures that each member pays proportionately equal contributions and this is reflected in the level of benefits that are available on retirement. For example, all FPS members are presently required to pay 11%; consequently a senior manager who earns £90,000 in a year would pay £9,900 over that year, and a firefighter who earns £30,000 in a year would pay £3,300 over that year. This is reflected in their pensions. The senior manager who pays three times as much as a firefighter by way of contributions gets a pension three times greater. This already achieves the aim of the second part of the above i.e. that higher earners should pay proportionally higher increases to reflect their more generous pensions, without any further tinkering by way of tiered contributions.
- 3.4 However, as the Westminster Government appears to be insistent about the need to introduce tiering to fire pension schemes, it is suggested that the fairest way of implementing this would be to apply tiering through a banding system similar to that used for income tax.
- 3.5 For example, a rate of 13% might be paid on earnings up to £30,000, 14% from £30,001 to £60,000, and 15% from £60,001 to £90,000 and 16% thereafter. It should be noted that these figures are purely arbitrary, to illustrate the principle, and some work would need to be done to determine what percentages and bandings would be needed to realise the required savings.
- 3.6 Charging by bands would be a much fairer mechanism since, for lower bands, every member of the Scheme would pay the same percentage amount for the same benefit at each lower income level. However, where an individual chooses to seek promotion they will be well aware that they will contribute a higher proportion of their additional income towards their pension benefit.
- 3.7 Applying a higher contribution rate based on a person's whole salary, is inherently unfair and may deter the better promotion candidates from coming forward, especially when recent changes to the pensions tax regime have already had a detrimental effect. People seeking to progress through FRS roles could be faced with a significant additional tax liability and they are now staring at the prospect of paying a very significant additional amount towards whatever pension benefits remain after 2015.
- 3.8 We already have concerns about the current quality of leadership within the UK fire and rescue service. We are even more concerned for the future and the need to encourage the best candidates to come forward for advancement to senior positions.
- 3.9 It appears that potential managers are actively being discouraged from seeking advancement as we have seen a number of disincentives introduced, such as reduced tax relief on pension benefits, proposals to alter the pensionable status of the Flexible Duty Supplement on top of a

pay freeze and across the board pension contribution increases. With tiered contributions being added to this list, we fear that the number of talented people interested in advancing to the most senior positions will diminish; to the detriment of the service as a whole.

- 3.10 Recent experience with a Scottish Assessment and Development Centre for Area Managers failed to identify a sufficiently high number of suitable candidates and some posts remain temporarily occupied by people who did not reach the required standard. It is deeply worrying that the role of Area Manager did not appeal to a sufficient number of people with the required abilities.
- 3.11 We also have doubts about the level of additional revenue that would be raised from tiered contributions due to the progressively smaller number of people at each level within middle and senior management roles. With the planned introduction of a single fire and rescue service for Scotland there will be even lower income from those at the most senior levels.
- 3.12 Using CIPFA 2010 establishment statistics, we have prepared some calculations of the likely revenue returns from the proposed contribution increases and some alternative contribution rates. We have focused our attention on England (since this is where the proposals originate). However, on a pro-rata basis we believe that the figures produced will be relevant to Scotland and will serve to illustrate the points made in this response.
- 3.13 For simplicity, it has been assumed that the average principal officer salary is £127,375 (taken from random sample of English FRS remuneration reports). It is also assumed that Competent pay B rates apply for each role.
- 3.14 Table 1 below shows the return that might be achieved if all existing staff pay contributions at the rates proposed. The figures indicate that the target return of £13.2 million for England is exceeded. More importantly, it demonstrates that there is a diminishing return from management roles, even with tiering. In practice, we suggest that the return from senior managers will diminish further as a result of tiering with an Area Manager paying in the region of £450 extra per annum (over £300 net), over and above the base figure of £841 at the 1.3% firefighter rate. This figure is more significant for a principal officer who, instead of paying £1,665 (over £800 net) at the base rate, would pay an additional £1,264 which is a significant amount even after higher rate tax relief.

Proposed increase	Brigade Mgr	Area Mgr	Group Manager	Station Mgr	Watch Mgr	Crew Mgr	Firefighter	Total Return
Proposed Extra 2012-13 Income	2.10%	2.00%	1.80%	1.60%	1.40%	1.40%	1.30%	
	£440,017	£283,477	£ 670,903	£1,203,655	£2,290,644	£1,737,159	£6,824,017	£13,449,874

Table 1: Estimated return from proposed 2012-13 contributions in England

- 3.15 Although the proposals relate only to 2012-13, we believe that increases will be sufficient to drive people out of the pension scheme. If, as we anticipate, rates increase further between 2013 and 2015, even more people would leave, significantly reducing revenue returns.
- 3.16 Area Managers are, for the purposes of national collective bargaining, classed as middle managers. The proposed £60,000 to £100,000 banding would place Area Managers in the same grouping as many staff at Brigade Manager level. We consider this to be unfair when the banding is so wide and recommend that there be a clearer distinction between middle and strategic (senior) management. A banding range of £50,000 to £90,000 would be more appropriate as the higher rate would only apply when significant local responsibility allowances are paid and there is a much clearer indication that an Area Manager is operating well beyond a middle manager role, e.g. performing Brigade Manager functions that put them into a strategic manager contribution band, perhaps when earning more than £70,000. Because of the relatively small numbers involved, this would not significantly reduce revenue returns but it could help to prevent many opt-outs at Area Manager level.
- 3.17 We believe that deferring the decision would help prevent opt-out and that the amount of lost revenue would be balanced out (if not exceeded) by the revenue retained from reducing the number of opt-outs. Table 2 below shows that the estimated amount of return would reduce by just over £1 m if the lower rate increase of 1.3% were applied to all staff. Whilst there would still be some opting-out, we believe that the perception of a fair approach being applied and the slightly lower costs would reduce the number of scheme opt-outs.

Proposed increase	Brigade Manager	Area Manager	Group Manager	Station Manager	Watch Manager	Crew Manager	Firefighter	Total Return
Increase	1.30%	1.30%	1.30%	1.30%	1.30%	1.30%	1.30%	
2012-13 Income	£272,392	£184,260	£484,541	£977,969	£2,127,027	£1,613,077	£6,824,017	£12,483,283

Table 2: Estimate return from proposed 2012-13 contributions in England with equal rates applied to all roles.

4. Assumed Opt-out rates

- 4.1 The Treasury's opt-out rate assumptions appear to be little more than arbitrary and not arrived at through any robust methodology.
- 4.2 This is somewhat worrying since a higher opt-out rate than that assumed will significantly impact upon the level of cost savings that will be achieved by 2015. Whilst we do not consider the rate will be as high as the 27% predicted by one FRS organisation, we believe that the rate will be higher than the assumed 1%. Our most recent members' survey indicates that: -
- For the 1992 Firefighters' Pension Scheme, 7.6% would opt out and some 37% would consider opting out.
 - For the 2006 Firefighters' Pension Scheme, 13.6% would opt out and 31.8% would consider opting out.
 - For our Local Government Pension Scheme members, 6.5% would opt out and 28.3% would consider opting out.
- 4.3 Our findings and those of other stakeholders indicate that the revenue return from increased contributions is likely to be significantly less than anticipated by HM Treasury. Whilst we hope that the number of opt-outs will not be as high as suggested, a high number of opt-outs or non-joiners means that fewer people will be contributing. This might not only fail to realise the savings sought by Government but also create additional pressure on the Schemes by adversely impacting on FRAs' cash flow.
- 4.4 New and younger members of the Fire Pension Schemes may consider that they cannot afford to part with more than 11% of their salary as a pension contribution and decide that the money is more useful to them now, particularly where they have a young family and a single income. We know that a number of members experience cash flow difficulties with regard to payment of this Association's subscriptions (which are not onerous) and we believe that such people are likely to seriously consider leaving their occupational pension scheme in the belief that the extra income generated will help to 'make ends meet'. We doubt that their focus will be on the long-term benefits of pension scheme membership even though they may find themselves with financial difficulties in their retirement years which in turn may lead to an increase in claims for State benefits.
- 4.5 We also believe that the significant contribution increases resulting from tiered contributions will prompt people at Area and Brigade Manager level to consider whether they might be better off investing their contributions in property or some other assets to avoid paying extra. If sufficient people in senior roles were to opt out, the effect of introducing tiered contributions would be to negate the returns that it is intended to realise. It might be attractive to opt-out and defer accrued pension benefits whilst investing what could be a considerable sum elsewhere, e.g. for someone with a salary of £90,000 this may amount to £11,970 per annum or £15,960 for someone earning £120,000.
- 4.6 It should also be borne in mind that estimates of likely revenue returns will also be reduced due to the fact that a number of principal officers have effectively retired from the Service (i.e. taken their pension) whilst remaining in post without making further contributions to the Pension Scheme. The prospect of higher contributions may prompt others to enter into such arrangements, further reducing income rather than gathering more from the higher contribution tiers.

4.7 We consider that such arrangements do little to enhance the perception of public sector pension schemes and may have contributed to the current situation where public service pension scheme members are facing cost increases and reforms. Very few members of the fire and rescue service are in a position where they are afforded an opportunity to take a lump sum and continue working. Given the recent media coverage of Chief Officers' being re-engaged, it is perhaps understandable that public sector pensions are perceived by some as 'gold-plated'.

5. Retained and Part-time Members

5.1 We understand the logic of applying a pro-rata approach to part-time staff but we have difficulty with the application of this approach to RDS staff. Where RDS staff are paid a pro-rata hourly salaried rate for hours worked, a pro-rata approach should be applied. However, the majority of RDS staff are not salaried and, until long-promised RDS duty system reforms are introduced, we believe that the percentage contribution rate applied should be assessed on actual income rather than reference pay.

5.2 In response to Question 5, we believe the proposed treatment of part-time workers is clear and equitable.

5.3 For RDS firefighters, we suspect that the proposed approach has been put forward because it is administratively simple to determine the contribution tier by reference to the whole-time equivalent pay.

5.4 The proposal would ensure equity if a person has more than one part-time job and when the hours of those part-time jobs are added together they equal the hours of a whole-time job. But in circumstances where the total hours are greater or less than whole-time, there will be inequitable treatment, for example: -

Scheme member A is whole-time. His pay is £21,000 a year.

On the current system, for a year he would be required to pay a contribution of 11% of £21,000, i.e. £2,310.

Assuming a tiered contribution system similar to that in the FPS table in Section 6, page 5, he would be required to pay a contribution of 11.6%. For a year this would be a contribution of 11.6% x £21,000, i.e. £2,436.

Suppose he retires at the end of that year with 20 years' service. His pension would be $20/60 \times £21,000 = £7,000$ a year.

Scheme member B is part-time. He, too, earns £21,000 a year, being a half-time worker in a job where the whole-time equivalent pay is £42,000. This is the only job he holds and he has family commitments which prevent him from working whole-time.

The rate for the job may be higher than for Scheme member A, but Scheme member B cannot be described as a "high earner".

On the current system, for a year he would be required to pay a contribution of 11% of £21,000, i.e. £2,310. Assuming a tiered contribution system similar to that in the FPS table in Section 6, page 5, he would be required to pay a contribution of 12.6%. For a year this would be a contribution of 12.6% x £21,000, i.e. £2,646. This is £210 a year more than Scheme member A pays.

If Scheme member B retires at the end of that year with 20 years' service. His pension would be $\frac{1}{2} \times 20/60 \times £42,000 = £7,000$ a year, the same amount as paid to Scheme member A

5.5 This example shows that, under the current system the two Scheme members with the same salary would pay the same contributions for a similar pension but, under the proposed system, a part-time worker could be required to pay more for a similar pension to that provided to a whole-time worker on the same pay.

5.6 Therefore, there may be issues in relation to the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000.

6. The Earnings Cap

6.1 The tables on pages 5 and 6 show that the highest band proposed is for those who earn more than £120,000. Nowhere in any of these discussions on tiered contributions have I seen an acknowledgement that both the FPS and NFPS contain an “earnings cap” and how this may impact on the proposal for tiered contributions.

6.2 The earnings cap was introduced by Inland Revenue in 1989/1990 and was set around £60,000 a year at that time and has since, we understand, been increased. It applied to all members of the FPS who joined after 31 May 1989 (or who rejoined after a break in service). Anyone whose earnings exceeded the cap, would not have contributions deducted, or benefits assessed on pay in excess of the cap.

6.3 The requirement for HMRC-approved schemes to have an earnings cap was dropped from 2006 but the FPS retained it and it was included in the NFPS. Because it is no longer a tax requirement, schemes that retained a cap assess and operate a “notional” cap with DCLG annually informing FRAs of the amount they should be operating, e.g. for 2010/2011 it was £123,600.

6.4 When assessing the increasing costs of the public service schemes, have GAD taken into account that an increasing number of principal officers are subject to the cap and has it been taken into account when considering how much additional “income” there would be from people in the highest tier of the proposed contribution rates, i.e. for those who earn in excess of £120,000?