

## **FIREFIGHTERS' PENSION SCHEME**

### **ILL-HEALTH REVIEW GROUP**

#### **NOTE OF THE 2<sup>nd</sup> MEETING OF THE FPS ILL-HEALTH REVIEW GROUP HELD ON 4<sup>th</sup> MARCH 2008 AT ELAND HOUSE, BRESSENDEN PLACE, LONDON**

##### **1. Introduction**

- 1.1 Attendees were welcomed to the meeting. Members introduced themselves and confirmed the organisation that they were representing. A full list of the attendees is attached at Annex A.
- 1.2 Copies of paper IHRG(08)7 – Supplementary tables, prepared by James Dalgleish, showing Ill-health retirement trends were issued to members.

##### **2. Minutes of the 1<sup>st</sup> FPS IHRG meeting**

- 2.1 The minutes of the 1<sup>st</sup> FPS IHRG meeting were agreed.

##### **3. Matters arising from the 1<sup>st</sup> FPS IHRG meeting – IHRG(08)5**

- 3.1 Paper IHRG(08)5 providing members with an update on items discussed at the 1<sup>st</sup> meeting was noted.

##### **4. Guidance issued by the Secretary of State – IHRG(08)6**

- 4.1 As requested at the previous meeting, paper IHRG(08)6 provided an explanation of Informal (non-statutory) and Statutory (formal) guidance. It had been cleared by CLG legal Directorate.
- 4.2 In discussion, the main points raised were:-
  - future FPS/FRD circulars should indicate whether it was informal or statutory guidance;
  - District Auditors could expect FRAs to have regard to any relevant guidance issued by CLG even if it was not statutory.

**ACTION:** CLG to indicate on future circulars whether the guidance is informal or statutory

## 5. Statistics on dismissals on capability grounds and ill-health retirements per authority – IHRG(08)7

5.1 Paper IHRG(08)7 showed, for England, the numbers of ill-health retirements per named FRA; the reasons why firefighters left the employment of a FRA; and the numbers of lower and higher tier ill-health retirements.

5.2 In discussion the main points raised were:-

- in table A, which showed the number of ill-health retirements per 1000 employees broken down into individual FRAs, there was a mistake on the table showing the number of ill-health retirements amongst whole-time firefighters in 2005/06 – the total number of retirements for England should be 1,047 and the number of ill-health retirements for England should be 287. The data showing the number of normal and ill-health retirements per 1,000 employees remained correct;
- when considering the supplementary tables 1 & 2 in paper IHRG(08)7 which included data on ill-health retirements per FRA for 2007/08, which had been submitted by James Dalglish, it was important to note that the figures were not official and had not been published. They did, however, show a significant downward trend in the overall number of ill-health retirements;
- it was noted that in table B, data showing the reasons for firefighters leaving the Fire and Rescue Service in England for 2006/07 was not available. However, it was confirmed that the total number of dismissals on capability grounds for regular and retained firefighters in 2006/07 were 46 and 48, respectively – this was consistent with previous years and therefore there was no evidence to suggest that the changes to ill-health retirement arrangements had led to an increase;
- it was suggested that the data in table A may not reflect the true number of ill-health retirements in the Fire and Rescue Service, as FRAs may be holding on to cases until the issue surrounding ill-health retirement was resolved – it was confirmed that this was not the case for Metropolitan FRAs;
- it was pointed out that '*dismissals on capability grounds*' was a very complex term and so there was a danger in making any assumptions about what the data showed. These figures would include dismissals which were unrelated to the issue of ill-health retirement;
- the statistics showed that there was a number of FRAs who clearly had higher rates of ill-health retirements than others. Reference was made to Essex, North Yorkshire and Nottinghamshire but it was emphasised that there could be specific reasons why particular FRAs had high rates of ill-health retirements in a particular year/period. Recruitment peaks might affect later ill-health retirement patterns. It was recommended

that the rate of ill-health retirements be tracked over longer periods;

- some FRAs had reduced their rates of ill-health retirements at a faster rate than others. It was suggested that the HR management factor was significant;
- it was suggested that tables showing the rate of ill-health retirements as a % of total retirements per FRA would be useful;
- reference was made to the mechanism of the Firefighters' Pension Fund and it was argued that if the high rates of ill-health retirements for some FRAs were due to poor management then it was not fair that other FRAs had to accept a share of the cost that this unfairly generated;
- other key issues were also responsible for driving down the rates of ill-health retirement, HR management procedures being managed more robustly, including the introduction of the requirement for Rule H1 decisions to be passed to an Independent Qualified Medical Practitioner (IQMP) and the fact that his/her opinion is binding on the FRA;

**ACTION:** CLG to list the FRAs who had above average ill-health retirements

**ACTION:** CLG to insert a column on table A of paper IHRG(08)7 to show the number ill-health retirements as a % of total retirements per FRA

## **6. Discussion papers exploring issues surrounding alternative employment – IHRG(08)8**

6.1 James Dalglish introduced his paper IHRG(08)8 – Annex A which explored redeployment and the issues/barriers surrounding it. The paper dealt with the situation where there was no agreement between employer and employee. In summarising, he made the following points:-

- (i) the 2 main issues that needed to be addressed were:
  - (a) are the terms and conditions of the new role no less favourable, in the round to those applying to the former role, and
  - (b) are the duties of the new role commensurate to the old role as well as being within the skill set of the employee;
- (ii) it was further suggested that research indicated that firefighters' pay make it more difficult to find suitable redeployment, at such rates of pay, in local government employment;

- (iii) temporary pay protection for those redeployed would mean that the terms and conditions of employment would have effectively changed – if permanent protection was given to the rate of pay then there could be issues regarding equal pay in addition to the extra cost to employers;
- (iv) redeployment to another employer involving the termination of the employment contract would raise significant legal issues – local government employers are obliged to employ the best person for the job and that might not be the firefighter;
- (v) there was a responsibility on the employer to seek to keep a firefighter in work and an onus on the firefighter to accept any offer of suitable alternative employment.

6.2 Emily Boynton introduced her paper IHRG(08)8 – Annex B which outlined the experience from the wider local government sector. This paper was drafted from her experience as a HR practitioner. In summarising, she made the following points:-

- (i) there could be problems requesting employers to take on firefighters who may have a poor attendance record etc. – gaining support from managers for redeployment may require a cultural shift;
- (ii) redeployment can be successful if there was a motivated and proactive HR team – a team that actively supported the employee and manager throughout the process;
- (iii) ill-health retirement is not the solution, especially for those who are young – keeping people in employment is extremely important;
- (iv) seconding a firefighter to another employer is a temporary arrangement and can only be done by agreement on all sides. It would be important to avoid detriment to the employee's wellbeing due to uncertainty of what would happen at the end of the secondment;
- (v) life expectancy is increasing and therefore an ill-health retirement pension would be expected to be sustained for a longer period of time – therefore there was increase in the costs associated with ill-health retirements;
- (vi) if individuals were left on long-term periods of sick absence without contact from the employer that in itself can make them more difficult to redeploy – there were definite linkages between management of sick absence and redeployment: Good HR practices were key;
- (vii) the introduction of safety management had significantly reduced incidences of sick absence;
- (viii) there was scope to learn best practice from those FRAs who have managed to reduce rates of ill-health retirements

significantly – this could be used to improve the performance of those FRAs who are the worst performers in regards to sick absence levels and ill-health retirement rates;

- (ix) there needed to be further debate/consideration about skills development/enhancement – developing an employee's skills so that they have something to fall back on – retraining etc;
- (x) there was potential for the use of trial periods in order to determine whether the redeployment of a firefighter was going to be a success.

6.3 In discussing papers IHRG(08)8 - Annex A and IHRG(08) – Annex B, the main points raised were:-

- the limitations of redeployment raised in James Dalglish's paper reiterated that the work of a firefighter was specialised and therefore any scope for redeployment was limited – any suggestion that there was potential for the large scale use of redeployment was naive;
- CFOA had already established a group which looked at the issues identified in Emily Boynton's paper and therefore there was a mechanism that already existed that could be tapped into for experience and practical ideas;
- it was suggested that secondments were not 'suitable alternative employment' as they were temporary by nature;
- an employee would not be legally obliged to accept a secondment;
- it was argued that the use of secondments should not be disregarded and that they could be a way forward for those firefighters who were nearing normal retirement age – if they were seconded to lower paid employments then consideration could also be given for making FRAs pay any top-up in salary.
- members were advised that secondments between the Police Service and local government were common – police officers who were unable to undertake frontline duties were being seconded to the local government as they had suitable skills and experience;
- there were concerns regarding redeployment to other local government employers because they had no experience of employing uniformed staff – it was also argued that County Councils were currently downsizing which meant that fewer vacancies were available;
- it was argued that whilst redeployment to another local government employer was technically feasible, the skills set of a firefighter was very different to the skills set of local government staff;

- it was suggested that new guidance should be issued to make it absolutely clear what FRAs were expected to do in cases where a firefighter is permanently disabled for operational duties, but not other non-operational duties of the role - FRAs would be required to assess all options i.e. good practice, health promotion, redeployment etc – but the discretion to ill-health retire was still needed in order to protect the employee;
- the fact that the FRA employers did not operate a similar compensation scheme to other public sector employers, and whether such a scheme would be a useful addition to management of some cases was discussed;
- it was suggested that if the mechanism for funding the Fire Service College was reviewed there would be potential to second firefighters who were permanently disabled for operational duties;
- it was argued that the position after the 2004 guidance had been issued included options for redeployment and the need for the 2006 guidance was questioned. In reply it was explained that the reasons had been previously discussed in the Firefighters' Pension Committee and had been noted in the minutes; the 2006 guidance more accurately reflected the actual terms of the regulations; and
- from the Northern Ireland experience, it was explained that the Northern Ireland Fire and Rescue Service had made adjustments in order to accommodate the redeployment of 2 firefighters who were permanently disabled for operational duties – there were a further 2 cases being considered.

**ACTION:** CLG to circulate relevant FPC minutes that explain why the 2004 guidance was incorrect

[Secretary's Note: please refer to paragraphs 6.2 and 6.3, [Minutes of the 19<sup>th</sup> FPC meeting](#)]

**ACTION:** CFOA to provide details of its group's findings and advice

**ACTION:** DHSSPSNI to identify the adjustments that the Northern Ireland Fire and Rescue Service made in order to redeploy 2 firefighters

## 7. 2007 Actuarial Valuation – IHRG(08)9

7.1 In introducing paper IHRG(08)9, It was explained that the 2007 Actuarial Valuation could have implications for employer and employee contribution rates and for the schemes' viability. It was emphasised that whilst increases in life expectancy was an important factor in the cost of the schemes, so too were the rates of ill-health retirements. It was not possible to speculate on the outcome of the valuation process.

## 7.2 In discussion, the main points raised were:-

- it was queried whether the set of actuarial assumptions for the 2007 valuation had been agreed, or whether they would be consulted on. In response, it was explained that appropriate venue for discussing this matter was the Firefighters' Pension Committee. The GAD assumptions were not negotiable;
- reference was made to Firefighters' Pension Fund and the ill-health retirement payment (2 x pensionable pay) that must be made when a firefighter was retired on a lower tier ill-health pension. It was asked how this payment compares to the real cost associated with ill-health retiring a firefighter. It was suggested that the level of payment needed to be transparently fair in order to ensure that FRAs with the lowest rates of ill-health retirements did not worry that they might be subsidising those with the highest rates ;
- it was argued that in order to safeguard the future of the Firefighters' Pension Schemes they needed to be as defensible as possible. There was no argument in cases where someone got injured on the fire ground that an award was appropriate but should someone who got injured playing rugby be entitled to an ill-health pension for the rest of their life;
- the FPS 1992 scheme was the most expensive public pension scheme. It was also noted that member's of the scheme pay the highest employee contribution rate of all public service pension schemes; and
- it was important to note where pensions sat in the broader context and the importance of bearing down on ill-health retirements in order to ensure scheme affordability.

**ACTION:** GAD to confirm that the ill-health retirement payment (2 x pensionable pay) reflects the true cost of retiring a firefighter on a lower tier ill-health pension

## 8. Any Other Business

### 8.1 Members were invited to raise any other business points.

- in reply to a query about timescales for the next steps, it was pointed out there was no specific timetable set for the review. However, there was a sense of urgency which would be reflected in the work. There wouldn't necessarily be one solution as there were many things which could be done and these wouldn't necessarily come together all at the same time;
- the question was raised as to whether the issue of compensation fitted into the review. In response, reference was made to the 5<sup>th</sup> bullet point on the Terms Of Reference (paper IHRG(08)1, which

referred to “fair and affordable means of payments for firefighters who do not qualify for an ill-health award but for whom no alternative suitable employment opportunity exists”. Members were invited to submit their comments/suggestions to address the matter of fair, financial provision.

- 8.2 In concluding, it was explained that the Group had now gained a clear understanding of the problems. There had been good discussion on the scope of redeployment with an appreciation of the barriers/problems that existed. It was also suggested that the worst performing FRAs could learn from the best practice of the better performing FRAs. CLG would work with employers to move forward proposals and consider revising guidance and drafting possible compensation package/s for those firefighters who were capable of undertaking non-operational work but where no alternative employment was available. The very helpful volume of data, evidence/information gathered by the Group would be reported back to Ministers. Suggestions for future action would be brought forward for the next meeting.

**ACTION:** Members invited to produce their own information/suggestions on the provision of fair, financial provision, or on any other matter they wanted to bring forward

## **9. Date of Next Meeting**

2<sup>nd</sup> April 2008 (2pm in Eland House)

***DCLG  
March 2008***

## Annex A

### Attendees

Lindsay Bell (Chairperson)	DCLG/LGF
Peter Betts (Chairperson)	DCLG/FRD
Sandy Bishop	DCLG/FRD
Terry Crossley	DCLG/LGF
Martin Hill	DCLG/LGF
Anthony Maude	DCLG/FRD
Anthony Mooney (Secretary)	DCLG/LGF
Fred Walker	LGA
James Dalglish	LGA
Emily Boynton	LGE
Seanne Giddy	PPMA
Mick Shaw	FBU
Sean Starbuck	FBU
Ivan Walker	Thompsons advising FBU
Ian Hayton	CFOA
Des Prichard	APFO
Craig Thomson	FOA
David Hughes	GAD
Joanna Jordan	Welsh Assembly
Heather Robinson	DHSSPS (N. Ireland)

### Apologies

Peter Hall	HM Treasury
Andrew Fleming	Scottish Executive
Dr Will Davies	ALAMA