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The Chief Executives, Fife Council and Dumfries &
Galloway Council
Clerks to the Joint Boards
Chief Fire Officers

Dear Colleague

SCOTTISH FIRE AND RESCUE CIRCULAR 11/2009

CHIEF OFFICER PENSION AGE AND TAX ISSUE

The Finance Act 2004 gave effect to the proposal for all registered pension schemes to incorporate a normal minimum pension age of 55 by 6th April 2010.

Paragraph 19 of Schedule 36 to the Act provides for members of certain pension schemes to preserve their full entitlement to benefits before age 55. The schemes, whose members can retain their right to take their pension before age 55, are listed in Regulation 2 of the Registered Pension Schemes (Prescribed Schemes and Occupations) Regulations 2005. The Firefighters' Pension Scheme 1992 is included on this list and therefore members of the FPS who can reckon 25 years' pensionable service retain the right to retire and take their pension from age 50.

Finance Act gives protection against the increase in minimum pension age to those who, under the Rules of their pension scheme, had a prospective right to a pension from age 50 before April 2006. HMRC guidance says that protection is given only to those who had an unqualified right before April 2006. Rule B1(2) states that a Chief Fire officer is required to seek the permission of the Fire and Rescue Authority to give notice of retirement and as such means that retirement before age 55 is qualified and therefore is not an unqualified right. HMRC are taking the view that Chief Fire Officers appointed before 5 April 2006 are caught and would have to pay an unauthorised payment charge if they retire before age 55.

To be clear this affects Chief Fire Officers only and those who were in post on 5 April 2006. Any individual who had a protected pension age as at 5 April 2006 who is subsequently promoted to Chief Fire Officer from 6 April 2006 retains their protected pension age and can retire under age 55 without incurring a tax penalty. SPPA are checking the position of the current eight Chief Fire Officers.

Authorities may be aware of a similar problem that applies to police chief officers. A different approach to police chief officers is possible because of a 2004 PNB agreement



that allowed chief officers to retire at age 50 giving 6 months notice. This removed any requirement to seek permission from the police authority and provides some officers with a protected age of 50. The PNB agreement only applies to chief police officers so cannot be used to alter the position outlined above for Chief Fire Officers.

CFOA(S) and individual fire chiefs who have contacted the SPPA have been kept informed of the above position. If authorities have any queries regarding this matter they should urgently contact SPPA.

Yours sincerely

Jenny Coltman
Policy Manager