



Office of the
Deputy Prime Minister

Creating sustainable communities

*Proposals for amendments
to the Firefighters'
Pension Scheme*

Government Response to the Consultation

September 2005

A response issued by the
Office of the Deputy Prime Minister, the Scottish Executive
the Department of Health, Social Services and Public Safety for Northern Ireland, and
the Welsh Assembly Government

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Printed in Great Britain on material containing 75% post-consumer waste and 25% ECF pulp (cover) and 100% post-consumer waste (text).

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Product Code 05 FPD 03365 (a)

ISSUE 1: GENERAL COMMENTS

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| 1.1 Pension funds have been mis-managed: The deficiencies in the current scheme have been significantly warped by the employers' failure to properly invest the funds they received from fire-fighters. | The Firefighters' Pension Scheme (FPS) is not a funded scheme but is pay-as-you go. This means that the risks associated with funded schemes are avoided because pensions are paid from revenue. |
| 1.2 The 11% of pay which firefighters have been contributing has been spent on other areas of local government expenditure when they were under pressure. | |
| 1.3 We believe that if there are to be any changes they should be made by amending the existing scheme and not creating a new scheme. That would be divisive. | Extensive changes need to be made to the pension arrangements for firefighters to meet the requirements for a modern pension scheme; to remove the perverse incentives and other deficiencies of the scheme; and to make it affordable. We do not believe that to make changes to the FPS which would be necessary to achieve this would be acceptable to members. It can only be done by developing a new scheme. In other areas of the public service second pension schemes have been brought into operation and staff have accepted this as a reasonable response to changing requirements. |
| 1.4 Members are concerned about divorce cases that have been "settled" and pension splitting orders issued by the Courts using figures calculated under the current regulations. Under the new provisions, the actual pension payable may not be as generous as originally thought, although the value of the benefits at normal retirement age may be the same. Does this mean the calculation (CETV) used to value the benefits in divorce cases needs to be amended and will this mean that "old" cases need to be recalculated? | No. The purpose of pension splits is to ensure that there is a final settlement at the time of a divorce. The matter cannot be revisited. |

1.5	We see no good reason why the current scheme's inequality between Chief Officer/Firemaster (CFO/Fmr) members of the scheme and lower ranked members of the service should continue. It is, therefore, requested that it should no longer be necessary for a CFO/Fmr to seek the fire authority's approval to retire and that no such provision be included in any new pension scheme.	We agree that this provision is no longer appropriate to the pension scheme. If it is required it should be a matter for agreement between a CFO/Firemaster and the Fire and Rescue Authority (FRA).
1.6	We would question the proposal to repeal the provision relating to compulsory retirement age, due to concerns as to how long it might be possible for individuals to continue to serve as an active firefighter.	We have already consulted through the Firefighters' Pension Committee on this and have secured agreement to making the amendment. It is not age but fitness which should be the determining factor.
1.7	We strongly support the fact that there are no proposals to change widows'/widowers' benefits.	We do not intend to make changes to the widow(er)s' benefits within the FPS.
1.8	The introduction of pensions for partners in the new scheme should be extended to the existing scheme. As the proposals stand existing firefighters will only be able to secure a pension for their partner if they give up the advantages of the current scheme. This is an unreasonable choice.	We have had very limited requests for extension of the FPS to provide partners pensions. As the benefit could only be provided at cost to members of the scheme and any member who wished for such provision will be able to do so through the new scheme, we do not propose to make such provision.
1.9	Bain recommended that proposals for a revised financing regime should be brought forward by Government and implemented without delay. The Government has failed to recognise this.	Proposals were issued for consultation on 8th February. The consultation closed on 3 May. We plan to announce the new arrangements in Oct 2005 for introduction in April 2006. The Scottish Executive amended its financing arrangements with regards to pensions from 2004-05 when it adopted a predictive methodology for the calculation of the pensions element of Grant Aided Expenditure in order to more accurately match funding requirements to pension requirements. This methodology was accepted by Scottish FRA's.

1.10 New death and injury benefit arrangements should have been published and subject to consultation at the same time as the proposed changes in the pension arrangements.	As we have made clear, the injury benefit arrangements are not part of the pension scheme. During the course of the consultation on the pension arrangements we made clear our intention to transfer the existing arrangements into a separate compensation scheme with some changes.
1.11 The existing Firefighters' Pension Scheme must not be watered down so that it resembles the Local Government Pension Scheme.	Changes are necessary because of the tax simplification reforms. It has not been the intention to make changes to the extent necessary to bring the scheme into line with the LGPS.

ISSUE 2: RETIREMENT AGE 55

2.1 Firefighters who have elected to purchase additional service, will they be given some form of protection now that they will be able to attain maximum benefits as a result of working additional years i.e. minimum retirement age rising from 50 to 55 years?	Existing contracts to purchase additional service will be treated as pre-April 2006 rights.
2.2 Will firefighters who have attained 30 years pensionable service but who will not be able to retire until they are 55 be able to take a 'payment holiday'? (No benefit in making pension contributions after 30 years pensionable service has been attained).	As was made clear during the consultation, we have considered this further. There are three options for accrued benefits:
2.3 We request that clarification is given regarding the financial status of members of FPS who decide to retire at 50 years of age from 2013, our understanding is that they will only receive the benefits they had accrued by 2006.	<ul style="list-style-type: none"> – For members to retire at age 50+ with 25 or more years' service and draw the pre-April 2006 part of their pension and to draw also the post April 2006 element with an actuarial reduction before age 55. However, because the scheme rules must ensure that a person who has taken a deferred pension is not disadvantaged in regard to any person who takes their pension early, the reduction factor would need to reflect the period between retirement and age 65 and would be large;
2.4 To encourage those who complete 30 years before age 55, and to help retain experienced personnel, we suggest that there should be a contribution holiday or a reduced contribution rate e.g. 6%.	

- 2.5 We would suggest an offer of actuarial reduction for service after April 2006 which would be tidier, not carry any cost and there would only be one pension in payment.
- 2.6 That the post April 2006 benefits could be paid at the same time as the pre-April 2006 benefits become payable with an actuarial reduction. Provided that the actuarial reduction is cost neutral we would support this idea.
- 2.7 Consideration should also be given to allowing members to pay reduced contributions once they have attained 30 years service.
- 2.8 Allowing members of the new or existing scheme who have achieved normal maximum pensionable service to accrue additional service would encourage older members of the service to remain at work longer.
- 2.9 Staff who remain in service beyond age 50 should be able to accrue additional pension benefits.
- 2.10 It would be unreasonable to expect members to pay full contributions for more than 30 years for no additional benefit. We believe that reducing contributions would certainly encourage people to stay in service longer.
- 2.11 If the government's intention to increase retirement age is imposed, we consider that as firefighters who entered the service up to 6th April 1988 were compelled to join the FPS they should be entitled to retire up to 6th April 2018 having completed 30 years service.
- 2.12 Members of the existing scheme joined the scheme in good faith expecting the terms of that scheme to, essentially, remain in place until retirement. We therefore consider that the proposals amount to a breach of contract.
- Secondly, members might continue in employment and draw their pension at age 55. Pension would continue to accrue after 30 years' service up to a maximum of 35 years. An accrual rate of 45th could be introduced for this period which would be equivalent to the existing rates averaged as a single rate over 30 years; and giving a pension after 35 years of 35/45, against the current rate of 40/60 after 30 years;
 - Thirdly after 30 years' service, when a full pension has accrued under the FPS, members could be allowed to contribute instead to additional pension benefits in the new pension scheme.

- 2.13 Whilst we accept the need to reduce the overall cost of firefighters' pension arrangements, it is concerned at the impact the changes will have on members who are not exempted from the proposals. Despite the exemptions, it is estimated that 60% of firefighters in the area will be detrimentally affected. Inevitably this will have a negative effect on morale with consequential risk of industrial action.
- 2.14 I would propose that the FPS adopts the 'lifetime pot' proposal by the Inland Revenue and discards the current restriction of 40/60ths.
- 2.15 If the 'lifetime pot' proposal by the Inland Revenue is not adopted by the FPS, then consideration needs to be given to either allowing the member to opt out, but protect the rights they have already built up or to allow them to remain in the scheme but only to pay a notional contribution of perhaps 1 or 2%.

2.16 The goalposts should not be moved with consequent impact on financial/retirement plans – it's not only those retiring by 2013 that have planned for their retirement. An increase in contributions from 11% would be preferable.

Transitional arrangements, including exempting some groups, is consistent with the way in which pension changes have been introduced in public service pension schemes.

One of the objectives in amending the existing scheme was to provide some limit to the cost of the scheme which has increased substantially over the last ten years. The proposals outlined in the Consultation document should deliver savings of about 3.25% of pensionable pay and restore overall costs to about the 1998 level. If the minimum pension age is not raised, the contribution rate would need to be raised from 11% to 12% to reflect the fact. We are not convinced that this would be acceptable given the existing cost to members.

2.17 Feeling that their transferred Armed Forces or private pensions have been wasted. Will they now be expected to work until 55 or will dispensation be given?	It is recognised that some firefighters have transferred previous service into the FPS from, for example, the Armed Forces. These rights will be protected in the same way as other pre-2006 rights.
2.18 The retirement age will result in members of the existing pension scheme with full service leaving the service before 2013 in order not to be subject to the new minimum pension age of 55. This will exacerbate the effects of the high level of retirements expected within the service as a whole in the next few years. It may be beneficial for consideration to be given to a phased implementation of the changes.	The change is being phased in. It will operate from April 2006 but those retiring at age 50+ with 25 or more years' service up to April 2013 will be exempt. It is inevitable with any such change to pension arrangements that there will be some cut-off point.
2.19 Why has April 2013 been chosen as the cut off point? Suggest that a phased implementation be considered.	
2.20 The sudden change in the rights of a firefighter who falls just the wrong side of the proposed transitional period (i.e. 6th April 2013) is undesirable.	
2.21 We have some reservations for the cliff edge provided for those who are close to, but just outside of, the transitional protection. Those covered by the transitional arrangements appear to be disproportionately protected compared to those just outside of the criteria.	
2.22 We also recognise that the Government is mindful to ensure that all revisions to pension schemes are designed to ensure that people are permitted to work longer. We would urge caution. Operational firefighting is a strenuous and hazardous activity and cannot easily be compared to the majority of local government and private sector roles.	The test should be fitness for role not age or length of service.

- 2.23 A change to the retirement age of existing members would not be appropriate for those who may have served over 20 years in the current physically demanding operational role without reaping the benefits of reduced intervention activity.
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- 2.24 A common date for implementing the changes of 1 April 2006 would, however, provide proportionate results, with those nearer to retirement suffering smaller early retirement reductions to those some way away from retirement.
- What we have proposed exempts those who are closer to retirement from the change without adding proportionately any additional burden to others to cover the cost of the exemption.
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- 2.25 The Pension Schemes (Prescribed Schemes and Occupations Regulations) 2004 indicate that it will (post April 2006) be possible for existing members of relevant pension schemes to retain a retirement age of 50 and we understand that members of the existing police pension scheme will not be subject to changes of the nature proposed for the fire service.
- We considered whether we should exercise this option before publishing the consultation document in October 2004. We came to the conclusion that the needs of the Police Service and the Fire and Rescue Services were sufficiently different to justify different treatment. The cost of the FPS has increased by over 3% of pensionable pay over the last ten years and unless changes are made will continue to increase. These extra costs are being carried by FRAs. The changes we are proposing will reduce costs to the level of the early 1990s and will enable the contribution rate for members to be held at the present level of 11% for the time being. The change will also enable FRAs to retain in service experienced staff who still have much to offer the service.
- 2.26 I would propose that protection is introduced for all current FPS members in line with that given to police officers.
- 2.27 If the new Firefighter's pension brings us into line with other public services, why is it that firefighters in the existing scheme cannot retire until age 55, however when introducing a new scheme for the police, officers of the existing scheme can retire at 50?

<p>2.28 Changing commutation arrangements to allow commutation up to a fixed rate of 3-4 times the full pension would reduce the number of people choosing to retire before their 52nd birthday so as not to attract a reduced commutation factor. It is suggested that the commutation factor applied might be calculated to produce a figure comparable to the current amount produced by the commutation table for someone retiring at 50.</p>	<p>While we have no plans to change the principles upon which commutation currently operates, however, we will consider amending the scheme to allow those who remain in service to age 55 or later not to be disadvantaged.</p>
<p>2.29 With firefighters having to work until they are 55, will there be any form of protection for commutations?</p>	
<p>2.30 Minimum criteria for protected retirement should be applied to those who will have completed 25 years service by 31 March 2013 with no minimum age requirement.</p>	<p>The age requirement is age 50. The FPS currently allows members to retire from age 50 with 25 or more years' service.</p>
<p>2.31 Will a firefighter who has 25/30+ years pensionable service and has attained 50+ years of age by April 2013 be able to continue service without being penalised?</p>	<p>The firefighter will be in the same position as he/she was before the change and will be able to continue working if he/she wishes, subject to a fitness requirement, and at the discretion of the FRA.</p>
<p>2.32 The raising of the minimum pension age to 55 is not supported as this will inevitably result in an increase in applications for early retirement on the grounds of ill health. There will inevitably also be issues around fitness which whilst not directly related to ill health may cause a firefighter to be unfit to continue in work.</p>	<p>We have introduced a number of amendments to the FPS over the last 8 years which with the wider use of occupational health services have enabled FRAs to better manage ill-health retirement and to retain in service staff who are no longer fit for operational duties. We would regard the raising of the minimum pension age to be consistent with these changes as well as the minimum pension age in the new pensions taxation regime.</p>

ISSUE 3: DEFERRED PENSION

<p>3.1 Does the definition of when a deferred award can become payable need to be amended to "unfit for all employment"?</p>	<p>We are already in process of making this amendment which is consequential on the changes made by the Firefighters' Pension Scheme (Amendment) Order 2004.</p>
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ISSUE 4: ILL-HEALTH

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| 4.1 | It is clear that there remains an incentive for personnel to retire at certain times in their career and therefore we appreciate the requirement to have a smoother scale of enhancements. | These comments are welcomed. |
| 4.2 | The Authority supports proposals aimed at reducing the number and costs of ill health retirements. Likewise, proposals to reduce the perverse incentive to retire at certain points of service. | |
| 4.3 | It would provide a suitable means of protection for existing members, while addressing the concerns over rising costs for the future. | |
| 4.4 | We agree with the two tier approach. The detail on who makes the decision on whether a person is capable of alternative regular employment needs clarifying. | |
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| 4.5 | Ill-health Retirement. It is not defined whether permanent disablement from taking regular employment should be a medical or managerial decision. We would suggest that this should be a medical decision. | It will be a medical decision and will be covered by Rule H1. |
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| 4.6 | Injury Awards. No details are available on injury benefits. We would urge that these are provided as soon as possible and that objective criteria are used for the minimum income guarantee calculation. The current provision is very subjective and difficult to administer. | We have commented elsewhere on the proposed compensation arrangements. |
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| 4.7 | Provision will need to be made for those individuals whose condition deteriorates after retirement to the point where they can no longer take up alternative employment and also for those whose condition improves to the point where they can. This seems to be an area with significant opportunity for disputes particularly around the margins. | The payment of awards to those who receive ill health retirement pensions will be subject to current arrangements for review on a similar basis to awards under the new scheme. |

4.8	There are still situations where individuals leave the service on the grounds of ill health quite fit enough to pursue employment elsewhere. It is in respect of these individuals that we would welcome the opportunity to provide an immediate un-enhanced pension. We still feel that an enhanced ill health retirement scheme is necessary to compensate those individuals who are disabled in the execution of their duties, and would support a fairer system of enhanced benefits.	Where a Fire and Rescue Authority seeks a medical opinion on whether a scheme member should be retired on health grounds they will also need advice on whether the individual will be able to undertake further employment. Fire and Rescue Authorities will be able to pay either a lower tier ill health award based on service accrued in the scheme, if the medical opinion is that the person will be able to work elsewhere, or if the opinion is that the person will not be able to undertake other work, a higher tier award based on service accrued in the scheme plus enhanced service.
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4.9	The suggestion to enhance pensionable service by half the prospective service to normal retirement age, is worthy of further investigation, but requires clarification. This is likely to persuade members fairly close to retirement to remain in service where possible, but could still be too generous to members who are mid-way through their careers. Perhaps a limit could be placed on any enhancement granted, for example, no more than 5 years service could be added to benefits.	Whilst there would be benefits in amending the existing arrangements for enhancing pensionable service, we take the view that because of other factors (e.g. dual accrual) we need to approach this aspect of any amendments with caution to ensure that all the implications have been fully considered. A person entitled to a higher tier award would receive enhancements on the same basis as at present, whilst someone with a lower tier award would receive an unenhanced pension equivalent to the deferred pension which would have been awarded if he/she had resigned.
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4.10	Protection for retained firefighters needs to be built into the changes, rather than being dealt with after the decisions have been made for regular firefighters. The effect of their injury can often result in a significant loss of income if their primary employment is also affected by their service injury.	The FRA can only be expected to compensate retained firefighters for loss of earning capacity within the FRS. Those who are serving in April 2006 who choose not to join the new pension scheme will continue to receive special treatment in the event of injury in the exercise of duties under Rule J4.
