

**“FACING THE FUTURE - PRINCIPLES AND PROPOSITIONS FOR AN
AFFORDABLE AND SUSTAINABLE LOCAL GOVERNMENT PENSION
SCHEME IN ENGLAND AND WALES”**

RESPONSE OF THE FIRE BRIGADES UNION

1. Introduction

The Fire Brigades Union represents 1,480 members employed by Fire Authorities to work in fire and rescue service control rooms. The vast majority of them are members of the Local Government Pension Scheme (LGPS) and the FBU strongly encourages them to join and remain members of it.

The FBU has seen the responses of other trade unions with members in local government to the consultation paper. We endorse what they say but in order to avoid simply repeating what has been said elsewhere, this response focuses on the specific issues relating to control room staff.

2. Principles for Reform

We strongly believe that any changes to the pension arrangements for these employees should be driven by the needs of the Fire and Rescue Service. Their working conditions have been the subject of a number of studies recently and subjected to considerable upheaval. We do not agree with many of the conclusions reached in those studies, but we do agree with the following propositions:

- The morale of control room staff is very poor. In the 1995 study into the Health of Control Staff¹, the conclusions reached included that:

Sickness absence was twice that expected

Physical and mental ill health was significantly worse than expected

Job dissatisfaction was significantly worse than expected.

- Amongst the aspects of the work causing or associated with these problems, according to the study, was lack of appreciation of control staff work. The recommendations made included a programme “actively [to] promote the central, vital role of the control room within the brigade.”
- Since then, proposals have been put forward by the ODPM for control rooms to be vertically integrated into nine regional control centres - a proposal the FBU vehemently oppose. In their response to the consultation exercise leading to that, the ODPM commented at a number of points that the retention of staff was critical to the success of the project and, and more specifically said:

¹ Health of Control Staff Safety. Report undertaken on behalf of the Home Office, 17 October 1995

“We recognise the issue of staff retention and are devoting a lot of time to developing a retention plan for current staff. At a national level we will provide what support we can to retaining staff and staff morale”².

That is a worthy objective of course. If the pension provision for control room staff is seen in that context, the only conclusions which can be reached are that:

1. The pension arrangements for control room staff should be integrated with the pension arrangements for firefighters. They should be in the Firefighters Pension Scheme and not the LGPS.
2. Those pension arrangements should be improved. Introducing worsened arrangements for future entrants to the job, and the proposal that current staff might be transferred to those new arrangements will have the precise opposite effect to the ODPM’s stated “Retention Plan”.

We can only conclude that a proposal to worsen the benefits of the LGPS is a crude initiative originating in the Treasury, without any sight of the contribution, role and importance of control room staff.

Nor do we accept that a case for reform has been made out by the Treasury. The actuarial assumptions used by all of the administering authorities are not available. What we do know is that the period over which past service deficits varies dramatically from authority to authority: in some cases the amortisation period is as short as 15 years and in others it is as long as 30 years. Barnett Waddingham³ has examined the funding of what they described as a typical local government fund and concluded that the past service deficit in their typical fund would cost 7.5% of payroll to pay off over a 13 year amortisation period, and 3.5% of payroll if amortised over a 40 year period. The difference is dramatic. Unless and until the statistical and actuarial basis of the ODPM’s conclusions are open to discussion their bald statements about the extent of any perceived problem cannot be accepted.

The FBU’s view is that improved arrangements, such as benefits for unmarried partners, should be made by amendments to the current scheme, and not the creation of a new one.

It is wrong to create a situation where two employees are working together, paying different pension contributions and accruing different benefits. If both are members of the same scheme, they have a sense of ownership of the scheme.

Creating a new scheme effective from a specified date creates a “cliff edge”: a member joining a day later than a colleague finds himself or herself in a different scheme.

How would the two schemes be paid for? Would there be different notional charges to Fire Authorities for the different schemes? If so, one scheme would be seen as expensive and one as cheap and the former would be perceived as a “problem”.

² Responses to comments of London Fire and Emergency Planning Authority, South East Region, and East of England Region, published on the ODPM website (2004).

³ Barnett Waddingham study, April 2004.

We are very strongly opposed to the possibility, canvassed in the consultation paper that this unification of pension arrangements for current and future staff could be achieved by transferring current members to a new scheme without their consent. It is not good enough to say that their benefits would be of equal value: equal to whom?

If this measure of equality of value is examined on a class-wide basis there will clearly be some losers: a member, say, who is married will be a member of a scheme with a more valuable benefit structure if it provides for unmarried partners' pensions. But this member is in no sense better off. If the comparison is made on the basis of examining the position of each individual member then the process is both cumbersome but also intrinsically unjust: why is the ODPM in a better position to say what is of value to a scheme member?

Against the background of the principal submissions made above, our comments on the detailed propositions in the consultation paper are of incidental importance to us: they should not affect our members because they should not be in the LGPS at all.

3. The Proposals

Contribution Rates

The consultation paper quotes an un-named "leading actuarial practice" in support of the proposition that the contribution ratio in 1926 was 40% employee : 60% employer. We hope that is not intended to mean that the ODPM wishes to return to the 1920s. What is more relevant is the ratio in a typical modern defined benefit scheme and specifically the contribution ratio implicit in the cost of providing future service benefits. If the LGPS has been under-funded for many years (as the ODPM appear to accept) then it is morally unjust that the current cohort of active members should have to make up the funding problems caused by past administrations which are related to the cost of benefits already in payment. The ODPM appears to accept that too.

We do not accept that a ratio of 60:40 is at all appropriate. In the recent parliamentary debates concerning what is now the Pensions Act 2004, the Minister said that the future service cost of providing final salary benefits was ♦⁴. The average employee contribution was 6%, implying a contribution ratio of 2:1. That is also the contribution ratio required in some of the largest public sector legacy schemes, such as the Railways Pension Scheme and the Electricity Supply Pension Scheme.

The proposal for a graduated scale of contributions might look fair but it does not stand up to any scrutiny. The average pensionable pay of a member of the LGPS was £12,636 in 2004⁵. Control Room staff are paid on a scale between £17,818 and £40,946. The proposal for a contribution rate of 7% on pay up to £38,000 and 9% thereafter is simply a contribution increase of 1% or 3% which our members will simply see as a pay cut.

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⁵ West Midlands Pension Fund: "Is there a future for the public sector pension scheme?" That is the figure for the West Midlands Pension Fund, which we believe to be typical.

It is also a disincentive to staff to seek promotion or to stay in the job. On the pay scales for control room staff, pay increases after 15 years service. For Group Managers (Control) and Principal Fire Control Officers, the implications of this graduated scale of pension contributions is that most of their increment would go in extra pension contributions. Any scale with a cliff edge step up in contributions will have that effect at some point on the pay scale.

Accrual Rate

The ODPM will not be surprised that we are strongly against any reduction in the accrual rate. When the Government is urging people to save more for their retirement, to reduce the accrual rate and simultaneously (i) increase contributions (ii) remove the AVC facility and (iii) remove the right to purchase added years is simply beyond belief.

We welcome the proposal that commutation to produce a tax free lump sum will be optional and not in effect mandatory as in the current scheme, and we welcome the improvement in the commutation rate to 12:1 instead of the 9:1 implicit in the current scheme. But there is no science in the 12:1 rate. The Government's own proposal for converting the value of pension to calculate the Lifetime Allowance in the tax regime post-April 2006 is 20:1. The ODPM says that a major driver behind the need to change the scheme is increasing life expectancy, and we see no excuse for not reflecting that in the commutation rate.

Survivors' Benefits

The Government states repeatedly that more must be done to improve the post-retirement income of women and carers - most recently in the DWP's paper "Principles for Reform" where it is said that the Government's response to the Pensions Commission will be "guided by the principle of ensuring policies of ensuring that policies give women and carers the opportunity to build up security in retirement."⁶

Where is that principle in the proposal to cut survivors' benefits? The ODPM proposes to remove short-term survivor benefits provisions and to reduce the long-term rate of survivors' benefits, including children's benefits when particularly in the case of carers, the survivors concerned have never had an opportunity to build up a pension of their own.

Early Leavers whose Departure is Outside their Control

This long-winded formulation means redundancy, and it is long-term FBU policy to resist any form of redundancy.

We are particularly opposed to the notion that employees faced with redundancy are to be presented with an opportunity to apply for a discretionary payment only. Our experience of discretionary awards is that they are not awarded. Payments under the

⁶ Principles for Reform, p23.

scheme should be predictable, for the member as well as the employer. Pension benefits should be entitlements not bounty.

We also take issue with the suggestion that a one-off payment could be of anything like the same value as an immediate, unreduced or enhanced pension. Even a cursory examination of the cost of augmentation equivalent to waiving the actuarial reduction will show that it is very much more valuable than a lump sum equivalent to one or two years' pay.

Ill-health Benefits

The FBU strongly opposes the idea of a two-tier arrangement for ill-health pensions.

We have referred to the 1995 study into the health of control room operators above. One of the findings made was that sickness absence was twice that expected. There was no suggestion at all that this sickness was anything other than genuine. Quite apart from physical problems with the working environment, the stress of the job causes significant mental health problems; the working environment can be improved but the stress cannot be taken out of the job.

We don't agree with the idea that a former employee who, in the opinion of the Independent Medical Adviser, *could* undertake some form of alternative paid employment should receive an inferior pension. If the work is not available, or if the former employee lacks the skills or experience to undertake that type of work, it is unfair to penalise him or her. It should be recognised that this problem will have a particularly severe impact on older workers: they are more likely to be fit to work, in the view of the Independent Medical Adviser, but unable in fact to find another job. It is a sad truth that older workers find it harder to find employment. The older worker is also more likely not to have the necessary skills and experience, having worked his or her whole career in the fire service.

Second, what exactly is meant by "alternative regular employment"? Control room staff join the Fire and Rescue Service because they have particular skills and attributes, and a desire to serve the public. It is unacceptable to cast them to one side because, although they are not fit enough to perform the tasks of their employment, they are fit enough to stack shelves. The Service has a moral responsibility to those who chose a career serving the public not to abandon them because, through no fault of their own, they fall short of the high standards of physical and mental fitness required by the Service.

Thirdly, it creates another "cliff edge". A former employee who is able to work as a lift attendant or shelf stacker should not receive massively different benefits from another former employee who has a marginally more serious disease or injury. The scope for contentious disputes and appeals is obvious.

The FBU finds the notion of outsourcing income protection arrangements to commercial insurance providers abhorrent. Contrary to what the consultation paper says, there is not "a wide choice" of commercial products: there are very few insurers in the sector. Their willingness to pay benefits is a function of their commercial self-interest, and the disreputable ways in which claims are denied has been the subject of

debate in the House of Commons. And why pay for the profit margins which these insurers add to the cost of the policies they sell? The same provision can be made in-house without having to generate a product.

Private sector pension schemes commonly provide ill health pensions on the basis that, once an ill health pension is awarded, it can be reduced later if the pensioner does in fact find alternative employment. Very few private sector pension schemes provide for ill health pensions on the basis of an “all work” test and it is very disappointing to see the government proposing to follow worst practice.

Partners’ Pensions

In the modern world, it is common for couples to live together without marrying. It has been so for at least 40 years. The FBU is pleased to see that the Government’s proposals have caught up with modern society and will provide pensions for unmarried partners. What is hard to credit is that the same modernisation cannot be made for all members.

It is not good enough for the Government to say that it will introduce this change if the scheme’s membership will pay for it. Married members are unlikely to be in favour and unmarried members will. It is almost universally the case that private sector pension schemes provide pensions for unmarried partners, and we are not aware of a single instance where the employer or trustees put the issue to a vote of members. Again the Government should be following best practice, not worst.

On points of detail:

- (a) If there needs to be some form of proof that the couple are living in a relationship akin to marriage, we cannot see why that needs the production of a nomination before the point of death. Including this requirement serves only to point to the possibility of a tragic case in the future where a couple set up a joint household but one partner dies before a nomination form is completed, or it is lost.
- (b) Similarly, we don’t accept that a two year period of cohabitation is proof of the strength of the relationship or the state of dependency. One year and 364 days living together is no different to two years: why create a problem?
- (c) Proof of dependency or interdependency is commonly accepted by pension schemes on the basis of evidence other than nomination forms or length of cohabitation. Having children, or a joint tenancy or mortgage, or joint bills ought to be enough.

Governance Issues

The FBU agrees that it would be very helpful if administering authorities provided policy statements on issues such as management of their funds and member communication. We think however that benefits under the scheme should be approached as matters of entitlement and not bounty. Statements of policy relating to the award of discretionary benefits should not be needed because there should be no

discretion in the award of benefits. Our experience of the statements of discretionary practice made under the current regulations has been less than helpful: statements are bland, and discretionary decisions are made in the light of financial constraints only and not whether or not the case is a deserving one.

We think a commentary on the application of the regulations, similar to the Commentary on the FPS would be helpful. But we view the prospect of “light touch” regulation coupled with codes of practice with concern. Rights and obligations under the scheme should be spelled out clearly and definitively.

4. Conclusion

We don't think the case for reform has been made out. These proposals have been driven by financial considerations but the basis from which they have been drawn has not been published or discussed. Life expectancies are improving and investments may not have performed but the cost today of funding for benefits payable in up to 40 years time depends on many factors, and in particular on the period over which deficits are spread. The practices of different funds is so different that the conclusions reached are inconsistent.

We strongly believe that one of the main reasons why people join the public sector is the pension they will earn by their service. Diluting the LGPS will be a major disincentive to joining local government.

We also strongly believe that current members have been misled into believing that their pension provision would be safe in the future. We think that any proposal to put current employees into a “new look” LGPS is appalling.

For our own members in the LGPS, however, our strongest contention is that they should not be in the LGPS at all. The proper integration of the pension entitlements for control room staff with the pension entitlements of firefighters is well overdue, and they should be in the FPS.