

18 January 2010

Treatment of supplements for Pension purposes

Summary

The Report summarises Circular 11/2009 and its likely implications on Fire and Rescue Services in England and Wales.

Recommendations

The LGA expresses the concerns set out in the report in response to the consultation and seeks further discussion at the Pensions Committee on the issues raised.

Action

LGA officers to action as appropriate.

Contact Officer: James Dalglish, LFEPA
Phone No: 020 8555 1200
Email: JAMES.DALGLEISH@london-fire.gov.uk

Treatment of supplements for Pension purposes

Background

1. CLG brought a paper to the Firefighters' Pension Committee on 27th May 2009 FPC (09) 4 in which it sought comments "on proposals for dealing with pensionability of allowances paid to members of the Firefighters' Pension Scheme 1992 (FPS) and the new Firefighters' Pension Scheme 2006(NFPS). After further discussions within the Committee on 18 November 2009, CLG issued the Circular set out in **Appendix A** on 9 December 2009 and has asked for comments back by 22 January 2010.
2. The consultation paper is a CLG document with CLG recommendations having considered the views expressed at the Firefighters' Pensions Committee. The circular may, therefore, reflect issues raised by various parties within the Committee, but should not be read as a recommended outcome from the Committee.
3. The definitions of pensionable pay within the 1992 scheme and the 2006 Scheme are set out in **Appendix B**.
4. The consultation paper is itself unclear as to what elements of remuneration it is seeking to address. CLG has been asked to clarify its position on pensionable pay, and has acknowledged in an e-mail of 31/12/09 that the paper has "not yet attempted a definition", but CLG envisage that it would be by linkage to the "basic annual pay as negotiated by the NJC". If CLG were to propose such a definition it would require a change in scheme rules as neither scheme has such a restrictive definition of basic pay.
5. Not all FRSs negotiate nationally on pay for their principal officers so it may be difficult to implement in practice, and it would limit opportunity to devolve responsibility for pay bargaining to local level if that were to become an employer objective. Equally a number of Fire and Rescue Services have introduced local schemes for their retained staff.
6. The consultation paper also raises the possibility that major elements of pay which are currently deemed pensionable should no longer qualify. The three specific elements it raises are "Temporary Promotions", the 20% Flexible Duty Supplement for the provision of 24/7 incident management cover and London Weighting. Consultees are not being asked to give views on such potential changes to pensionable pay, but each of them would impact significantly on the value of the reward package, including retention of long serving employees. The first two would also impact on the likelihood of employees seeking promotion within the service.

Main proposals

7. The circular sets out two proposed options to address the issue of long term sustainability of the Schemes with the aim of any change being to ensure that decisions taken locally are paid for locally on a fair value for money basis and do not impact on the overall long term finances of the scheme or the budget of any other FRS. Those two options are set out below:
 - a. to introduce an approvals process to assess and mitigate against cost implications for the schemes and
 - b. to adopt Additional Pension Benefit (APBs) arrangements similar to those introduced in 2007 for CPD payments.
8. The first proposal is that CLG would charge each FRS an additional contribution to cover the past service costs should they decide to make an allowance pensionable.
9. On the second proposal, APBs are a mechanism to allow elements of pay which are likely to be temporary to become pensionable thus enabling an individual to receive pensionable benefit even if that element of pay may not feature in their final salary. APBs produce variable pension benefits based on the age and length of service of the individual. APBs are, however, administratively burdensome, a point acknowledged within the consultation document.
10. The consultation paper does not, therefore, address the issue of what may or may not be deemed to be pensionable pay, it merely addresses options for dealing with those elements of pay that are not pensionable and how FRSs may chose to deal with those.
11. It is difficult to make a meaningful response to the consultation paper without this question being addressed and resolved first. It is only when there is a clear definition of pensionable pay that it would be reasonable to address whether or not there is an issue to address in terms of enabling greater flexibility on pensionable pay.

Other questions

12. The consultation paper invites consultees to respond to five specific questions related to the future managerial arrangements if either of the options are adopted, but also indicates that it would welcome any other comments or suggestions on the issue of pensionable pay. The comments set out in **Appendix C** are based on the premise that there will be no change to any element of pensionable pay and that the questions are asked in relation to new allowances or emoluments.

Conclusion

13. Any restriction on the definition of basic pay would impact significantly on FRSs abilities to negotiate local pay and productivity deals and as stated above could have major impacts on staff retention and promotions within the service.

Financial Implications

14. Any containment of pensionable pay will reduce employer contributions and thus have a positive financial benefit for all Fire and Rescue Services unless they decide to replace such elements with APBs in which case there would be potential additional costs. Any savings need to be set against the impact upon recruitment particularly at middle management level and changes in working practices including pay flexibility

Implications for Wales

15. The consultation paper applies to Wales and it will affect Welsh Fire and Rescue Services equally.

Contact Officer: James Dalglish, LFEP
Phone No: 020 8555 1200
Email: JAMES.DALGLEISH@london-fire.gov.uk