

**Item 3**

**Retained Firefighters' Pensions**

**Purpose**

For noting and discussion.

**Summary**

This report updates Members on the latest position regarding retained firefighters' pensions.

**Recommendation**

Members are asked to consider the issues outlined in this paper and comment on the next steps.

**Action**

Officers to action as directed.

**Contact officer:** Eamon Lally  
**Phone no:** 020 7664 3132  
**E-mail:** [eamon.lally@local.gov.uk](mailto:eamon.lally@local.gov.uk)

**Item 3**

## **Retained Firefighters' Pensions**

### **Background**

1. As a result of the Employment Tribunal (ET) judgement (case number: 6100000/21) retained duty staff will have the right to buy back pensionable service for the period 1 July 2000 and 5 April 2006 inclusive.
2. DCLG has been negotiating a settlement with the Fire Brigades Union (FBU) on retained firefighters' pensions, in line with the ET judgement. We understand that these negotiations are at an advanced stage and that DCLG will be bringing forward a consultation in July/August 2012. The government plans to consult for 12 weeks on an Amendment Order that will implement the settlement between the Government and the Fire Brigade Unions. Implementation will begin early in 2013.
3. The balance of scheme liability will begin to emerge in 2013/14 financial year.
4. The Government's Actuarial Division (GAD) estimates that around 21,000 people are eligible to buy-back service.
5. Representatives from FSMC (Cllr Heaster, Cllr Byrom and Cllr Aspden) met with the Fire Minister on 11 June 2012 to discuss retained firefighter pension issues. The Minister has subsequently written to the delegation and this letter is attached at **Appendix A**.

### **The Government's position**

6. The Government's position as set out in the Minister's letter can be summarised as follows:
  - 6.1. The decision on funding the settlement is a matter of government policy, which is that pension costs are an employer responsibility whether they relate to past or future service.
  - 6.2. That the normal spreading period for the retrospective application of pension benefits is 10 years and that this period would begin following the next valuation which is due in 2014—the Minister does indicate that there might be some scope to extend the spreading period.
  - 6.3. The costs associated with retained firefighters retrospective access to the pension scheme cannot be treated as a new burden because it arises from part-time workers legislation that applies to private as well

### **Item 3**

as public sector organisations. This principle is set out in paragraph 3.10 of the New Burdens Doctrine: Guidance for Government Departments.

- 6.4. The liability should be spread across all fire authorities through a common contribution rate, regardless of whether they have employed retained staff during the period in question.

#### **Implications of the government's position for fire authorities**

7. The government's current position is clear in stating that this is a collective responsibility for employers and will be dealt with as such.
8. At this stage we can only estimate the potential costs to employers resulting from retained staff taking up the offer to buy back pensionable service. The best estimates have been provided by GAD. GAD's estimate implies that if all of those who are eligible take up the offer it will cost fire authorities £500 million. Spread over 10 years that would be £50 million per year. To put this in perspective it represents 2 per cent of the annual fire service expenditure, which is £2.6 billion in total, or 8 per cent over a four year spending review period. This cost will of course come on top of any further reductions we might expect in fire funding as a result of the next Comprehensive Spending Review (CSR).
9. If the government's cost is passed on the fire authorities, then this will only be manageable with a much longer spreading period than is currently envisaged by the government.

#### **Our legal advice**

10. The legal advice that we have had to date points strongly to the RDS pension costs being a government liability. Some of the key points are that:
  - 10.1 It was not the decision of the fire authorities that excluded the retained firefighters from the scheme once the Part-time Workers Regulations 2000 came into force.
  - 10.2 If retained firefighters had had access to the 1992 scheme at that time, the costs would have been dealt with as part of the process of assessing the relative spending needs of fire authorities.
  - 10.3 For those authorities that did not have retained staff in the period in question, a requirement that they contribute to pension costs must

**Item 3**

surely be a new burden. It can also be argued that it is a new burden for all fire authorities, given the financing arrangements that were in place between 2000 and 2006.

11. Our broad legal advice remains unchanged following consideration of the Minister's letter.

**Risks**

12. The risks in taking on the burden of RDS pension costs are considerable in terms of the financial position of fire authorities and in terms of service delivery.
13. However it is also important to note that there could be risks to fire authorities should the costs be borne by the government. It is not clear how, in such circumstances, the government would finance this cost. Clearly, if the government simply chooses to top slice from the fire budget this will leave fire authorities in the same, if not worse, position than if they bore the costs themselves.

**Next steps**

14. The Fire Commission expressed a strong view that the costs of providing retrospective access to the pension scheme for retained firefighters should be borne by the government.
15. In addition the Fire Commission noted that this was an issue on which fire authorities should be united. This view will shape the manner in which the issue is addressed.
16. Following a request of the Fire Commission, a delegation of members will seek to meet the minister for a second time on 18th July to discuss the issues raised in this paper.
17. LGA officers are continuing to work with fire authorities, through the fire finance network, to understand the potential liabilities for individual authorities. The focus initially is on understanding the position in those authorities that are likely to have had the most retained staff during the period in question. We are also keen to understand if any fire authorities have made provision for the potential costs. We expect to have this information in advance of the meeting with the Minister.
18. The attendees at the Fire Commission agreed to consider, in their own fire authorities, contributing to the acquisition of further legal advice should

**Item 3**

that be deemed necessary. In the event that further legal advice is needed we will write to all fire authorities with further details.

**Financial Implications**

19. There are no immediate financial implications arising from this paper.