

TYNE AND WEAR FIRE AND RESCUE AUTHORITY

Item No. 5

HUMAN RESOURCES COMMITTEE: 8 FEBRUARY 2016

**SUBJECT: PENSION UPDATE: FIREFIGHTERS' PENSION SCHEME (FPS)
1992 - CONTRIBUTIONS HOLIDAYS SETTLEMENT**

**JOINT REPORT OF THE CHIEF FIRE OFFICER AND CLERK TO
THE AUTHORITY, THE FINANCE OFFICER AND THE PERSONNEL ADVISOR
TO THE AUTHORITY**

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to inform members of the recently agreed settlement between the Department of Communities and Local Government (DCLG) and the Fire Brigades Union (FBU) with regard to contribution holidays for FPS members who reach 30 years' pensionable service before reaching the age of 50.

2. BACKGROUND

- 2.1 Members are reminded that the earliest date an FPS 1992 scheme member can retire is their 50th birthday with full service. Additionally, the scheme caps a member's pension benefit is at the 30-year point.
- 2.2 For example, if a scheme member starts making contribution into the scheme at the age of 18, they will attain 30 years of pensionable service at 48. They will not be permitted to retire until 2 years later; at the earliest pensionable age of 50. In these 2 years the scheme member must continue to make pension contributions otherwise their pension would be deferred to the age of 60.
- 2.3 This rule formed the basis of a claim brought by the FBU which argued that this amounted to age discrimination, with the scheme member making 2 years' pension contributions for no additional benefit. The FBU historically argued for a "contributions holiday" where a scheme member is in this situation.
- 2.4 DCLG contested this view. However, on the 7 December 2015, prior to the claims being presented at tribunal, DCLG confirmed that the Secretary of State would allow members under the age of 50 who have accrued 30 years' service to take a contributions holiday from the time they attain 30 years' pensionable service until they reach age 50.

3. CHANGES TO 1992 FIRE PENSION SCHEME RULES

3.1 On the 7 December 2015 the agreement was reported as;

“The rules of the 1992 FPS will now be amended to allow an affected member (i.e. one who joined before the age of 20) upon reaching 50, to be able to choose to:

- Retire with a pension.
- Continue employment and recommence payment of contributions (the accrual cap remains in place with a maximum thirty years’ pension).
- Or continue employment without paying contributions thereby electing to defer their pension.”

3.2 Further to this

“The proposal is to be applied retrospectively to 1 December 2006 so that:

- If a firefighter has already paid contributions in to the FPS after that date;
- And has already accrued 30 years’ pensionable service;
- And was under the age of 50

He/she will get a refund of contributions for that period.

This refund will include a payment in relation to interest.”

4. NEXT STAGES

4.1 The appropriate pension regulations will need to be amended before any action to correct this issue can be undertaken by Fire and Rescue Authorities. It is envisaged that the appropriate amendments will be made within 6 months of the ruling date of the 7 December 2015.

4.2 DCLG have stated that they will provide more information on this matter in due course, and engage with Fire and Rescue Authorities and trade union representatives on the practicalities of implementation.

4.3 The FBU has also stated that they will continue to examine other potential challenges associated with this particular age discrimination issue.

4.4 At this stage, officers of the Authority have commenced consultation with Pension Administrators at Sunderland City Council (SCC) regarding the work required to complete this exercise. However, in the absence of the draft

legislation it will be prudent to undertake a high level assessment until DCLG provide further information.

4.5 A number of issues will need to be considered within the implementation and consultation process. For example;

- Will employers receive a refund of employer contributions?
- How will the ruling interact with the 2015 scheme?
- Who will fund the interest payment on the back dated refund of contributions?
- Who will make the payments to retired members?

4.6 The Authority will need to actively engage with DCLG (or the Home Office) when the consultation process is opened later in the 2016.

5. INITIAL EXERCISE

5.1 In order to gain an indication of the number of scheme members affected by this ruling an initial exercise has been carried out to identify those who;

- Commenced employment before age of 20
- At the 1 December 2006 where less than 50 years of age

5.2 The exercise identified a potential 68 scheme members who may be affected by this decision, made up of 58 retired members and 10 active members.

6. FINANCIAL IMPLICATIONS

6.1 The financial implications are unknown at this stage, but will be reported when further information is made available and the impact can be calculated accurately.

7. EQUALITY IMPLICATIONS

7.1 This issue originates from regulations that were deemed not to comply with the Equality Act 2010 and presented a challenge under the protected characteristic; age. There are no known additional equality implications in addition to those covered by this report.

8. HEALTH AND SAFETY IMPLICATIONS

8.1 There are no health and safety implications of this report.

9. RECOMMENDATIONS

9.1 The members are recommended to:

- a) Note the content of this report;
- b) Receive further reports as appropriate.

