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To: All Members

Dear Brother/Sister

Government's imposed changes to firefighter pensions: FBU continues to fight.

Members have drawn to our attention a particular problem regarding the closure of the 1992 FPS for members who have accrued an entitlement to benefits under the 1992 Scheme and also under the 2015 Scheme. It is a problem we are aware of, and we continue to do everything that we can to fight the Home Office's intransigence on the issue.

It concerns the interaction of the pension ages for the 1992 FPS and the 2015 FPS, the fact that a member who has accrued benefits in the 1992 Scheme cannot draw their 1992 Scheme benefits without retiring from their FRS, and the fact that if a member takes his or her 1992 Scheme benefits after the age when they first became available there is no uplift to account for the fact that they are being taken late. They can take their 1992 Scheme pension at the same age that applied before April 2015, but the consequences could be disastrous.

The real core of the problem is the age 60 pension age applicable under the 2015 Scheme.

We took extensive legal advice in 2013 and 2014 to see if increasing the normal pension age to 60 was open to legal challenge. The answer is that the transitional arrangements were open to challenge (and that is the case we have made and won), but that apart increasing the normal pension age was probably lawful.

The risk of course is that members will not be able to maintain their cardio-vascular fitness into their late 50s, without qualifying for ill-health retirement. This was recognised in the Williams Report, which recommended that firefighters over the age of 55 who can no longer meet the fitness requirement should be allowed to leave early on a reduced pension calculated so there is no overall financial advantage or disadvantage to the firefighter (or to the pension scheme) from the member leaving before the normal pension age. We made some progress on that by getting the early retirement reductions reduced, and we pushed the Government into making an amendment to the Fire and Rescue National Framework requiring each Fire and Rescue Authority to:

- *have a process of fitness assessment and development to ensure that operational personnel are enabled to maintain the standards of personal fitness required in order to perform their role safely;*
- *ensure that no individual will automatically face dismissal if they fall below the standards required and cannot be deployed operationally;*
- *ensure that all operational personnel will be provided with support to maintain their levels of fitness for the duration of their career;*
- *consider where operational personnel have fallen below the fitness standards required whether an individual is able to continue on full operational duties or should be stood down, taking into account the advice provided by the authority's occupational health provider. In making this decision, the safety and well-being of the individual will be the key issue;*

- *commit to providing a minimum of 6 months of development and support to enable individuals who have fallen below the required fitness standards to regain the necessary levels of fitness;*

- *refer an individual to occupational health where underlying medical reasons are identified that restrict/prevent someone from achieving the necessary fitness and that individual must receive the necessary support to facilitate a return to operational duties; and*

- *fully explore opportunities to enable the individual to remain in employment including through reasonable adjustment and redeployment in role where it appears the medical condition does not allow a return to operational duties.*

When asked in the House of Commons whether this was a legally-binding guarantee that no-one would face the "no job no pension" problem, the Fire Minister of the time said that it was. Sadly we knew then, and we know now, that that is not true. But these are policies that every Fire and Rescue Authority must have in place. We will continue to ensure that they do, and that they are followed.

The problem for firefighters who have service in the 1992 FPS and in the 2015 Scheme is that whatever choice they make when they reach the age of 50 or 55 they stand to lose out. The example we provided to Home Office is a member who has accrued 25 years' pensionable service in the 1992 Scheme by 31 March 2022.

This member was born, say, in 1977 and joined the fire and rescue service in 1997 at the age of 20. On 31 March 2022 s/he is therefore aged 45, and not yet able to draw his or her 1992 Scheme benefits. Five years later, at the age of 50, s/he can do so. By that stage s/he has accrued five years' membership of the 2015 Scheme. But he or she has a dilemma:

- If he or she draws the 1992 Scheme pension and lump sum at the age of 50, the commutation factor applicable to a 50-year-old will be applied (£24 : £1). But because he or she must leave the service, the five years of 2015 Scheme pension is treated as deferred. It cannot be taken at all at age 50.

- He or she could decide to take the deferred 2015 Scheme pension from age 55 and accept that it will be subject to actuarial reduction. But the reduction would (in England) be a massive 46.6% (this member's State pension age is age 67).
- He or she could continue working until retiring and drawing both pensions at age 55, but (a) the 2015 Scheme pension will be reduced in England by 21.7% and (b) the 1992 Scheme pension has not been paid for five years, and the commutation factor applied will be the factor for a 55 year old (£21.9 : £1).

- If he or she carries on working until age 60, the 15 years' 2015 Scheme pension can be taken without any early retirement reduction. But his or her 1992 Scheme pension is being paid 10 years late without any actuarial uplift, and the commutation factor applicable will be £19.4 : £1.

This is grossly unfair. Whichever choice they make, the member has lost tens of thousands of pounds. For example, if the accrued 1992 Scheme pension is worth £15,000 (approximately 30/60ths of a competent firefighter's pay), delaying payment by 10 years represents a loss of £150,000. But unless the regulations are changed this continues to be lawful.

On the union's behalf, Lord Davies of Brixton raised this issue when the latest Public Service Pensions and Judicial Offices Act was being debated in the House of Lords in November 2021. He and our other Parliamentary colleagues will continue to press the case. We will press it again when the next batch of pension regulations are made in the coming months.

The FBU has continually made the point in previous responses to consultations, and in representations to ministers, that in our view it is absurd to expect front-line firefighters to continue in an operational role until they reach the age of 60. The FBU is clear that the evidence we have provided throughout such discussions has exposed the weakness of the case made by government for the changes to firefighter pensions, for the closure of the 1992 scheme and for a normal pension age of 60 for firefighters. Neither ministers nor government officials have ever been able to answer the detailed technical and operational arguments we have made on this matter.

When the 2015 Scheme design was being discussed we said that it is incontrovertible that:

- Cardiorespiratory fitness declines with age.

- If a given requirement for cardiorespiratory fitness is fixed as is the case, it is significantly easier for a person who has a higher baseline fitness level to maintain the required level of fitness, despite the age-related effects noted above, than it is for a person who starts from a lower baseline fitness level. In other words, a person who is fit will find it easier to stay fit than a person who is not fit to remedy that and then to maintain their fitness.
- At all ages, average cardiorespiratory fitness (as measured by VO2max) is significantly lower for women than it is for men.
- The FBU has previously highlighted to the Home Office that this is generally a problem for all firefighters as they enter the mid-50s. It is a particular challenge for women firefighters.

The consequence of the second bullet point above is that firefighters who were older when fitness standards were introduced, and who joined their FRS under less stringent fitness standards, are more likely to fail a fitness test than recruits since that date. It is not in the interests of the service to support a substantial number of employees who are not fit to perform frontline duties, for whom there is no alternative role, but who cannot afford to retire. The FBU believes that the FPS regulations must be amended (and have stated as such to Home Office) to include provision allowing them to retire without financial or other disadvantage.

We will continue to make those representations. So, we are clear, in relation to firefighters the Government's pension changes are not evidence based. They are merely an austerity and cost cutting exercise and an attack on firefighters' pension rights. The FBU supports, and will continue to fight for, pension arrangements genuinely based on the demands of the occupation our members follow.

Yours in unity,

Mark Rowe
National Officer

MR/jr