THE FIRE BRIGADES UNION

SPECIAL CONFERENCE 2012

EXECUTIVE COUNCIL POLICY STATEMENT

CAMPAIGNING TO DEFEND OUR PENSION SCHEMES

SECTION 1: BACKGROUND TO THE ATTACK ON FIRE SERVICE PENSIONS

1.1 Fire Service Pensions

Pension rights are an extremely important aspect of conditions of service. In an industry like the Fire Service where workers face particular risks and hazards, pension and related rights are especially important. Members of the Fire Brigades Union (FBU) are generally members of one of three schemes, the Firefighters' Pension Scheme (FPS); the New Firefighters' Pension Scheme (NFPS) which was created in 2006; and the Local Government Pension Scheme (LGPS) for Control members. Retained Duty System (RDS) members may be members of the NFPS although there remain significant numbers who are not currently members of any scheme. However, as a result of the FBU's groundbreaking and successful legal challenge on part time workers rights, significant numbers of RDS members will soon have access to the modified NFPS with enhanced benefits equal to those in the original FPS.

The Union strategy over the past year has built a campaign to defend pensions while taking account of the different needs and challenges facing different groups of members.

1.2 The Attack On Pension Rights

The coalition Government formed in May 2010 set out its ambition to make public sector workers pay more, work longer and get less for our pensions. The coalition agreement included a commitment to "establishing an independent commission to review the long term affordability of public sector pensions, while protecting accrued rights".

On 20 June 2010, former Labour minister John Hutton was given the remit to report on "delivering savings on public service pensions... to contribute towards the reduction of the structural deficit" and reducing the gap "between public service and private sector pension provision", i.e. to drag down the value and benefits of public-service pensions. Hutton published his interim report (7 October 2010) and final report (10 March 2011). He proposed new pension schemes from 2015, with public sector workers working to the state retirement age (except for firefighters, the police and armed forces) and receiving career average benefits instead of final salary schemes. On 23 March 2011, the Chancellor of the Exchequer accepted these recommendations in their entirety as a basis for consultations with public sector workers, unions and others and stated that there should be no cherry picking on either side.

In the Budget (22 June 2010), the Government said it would cut inflation-uprating for pensions from the Retail Price Index (RPI) to Consumer Price Index (CPI), from April 2011. It introduced these changes in April 2011 without consultation.

In the Comprehensive Spending Review (20 October 2010), the Government announced that 3% additional pension contributions would be taken out of public sector workers' wages from April 2012. This was later amended to a rise in average employee contribution rates of 3.2% the armed forces being exempted from the increases. The Westminster Government published a consultation document on 9 September 2011 outlining increases for most firefighters, of 1.3% for FPS and 0.6% for NFPS members, with higher, tiered rises for higher earners in both schemes. (Scottish, Welsh and Northern Ireland government subsequently published identical proposals). On 29 March 2012 the Westminster government imposed pension contribution increases for firefighters, starting with 0.6% for FPS members and 0.3% for NFPS, with higher tiers for higher earners. (Scottish, Welsh and Northern Ireland Government subsequently imposed identical increases).

In December 2011 the Westminster Government announced a Heads of Agreement for the LGPS for England and Wales that would still deliver the £900 million savings. It proposed a delay of contribution increases for two years, in return for an earlier move towards a higher Normal Pension Age and an overall increase on average of 1.5% in 2014. (The Scottish Government took a decision not to adopt the proposals for the LGPS in England and Wales). On 9 February 2012 the Westminster Government published its "Heads of Agreement" for the new post-2015 Firefighters' Pension Scheme. Its proposals included average member contributions of 13.2%, a Normal Pension Age of 60 and a career average benefits scheme.

SECTION 2: THE FBU'S RESPONSE TO THE ATTACK ON FIREFIGHTERS' PENSIONS

2.1 FBU Position

The FBU has never accepted that detrimental changes to Fire Service pensions are necessary. Indeed the union is currently unique among public sector unions in seeking a reduction in an existing Normal Pension Age, holding that the current Normal Pension Age for members of the NFPS must be reduced from 60 to 55. The Union does not accept that firefighters and other public sector workers should bear an additional burden of paying off the Government's deficit through cuts in reasonable pensions that remain affordable in a civilised and comparatively wealthy country. The FBU does not accept that FBU members can or should work longer and then receive lower pension benefits after giving a lifetime of commitment to public service. The Union has mounted a robust campaign to defend and improve firefighters' pensions, using all political, industrial, legal and other channels available.

2.2 Consultation With Members

The FBU organised a series of Branch, Brigade and Regional meetings from January 2011 to outline the scale of the pensions attack and the Union's response to it. Members were asked to discuss and vote on a model resolution on the issues (see Appendix 1). The FBU discussed our pension's strategy at our Conference in May 2011, passing a series of resolutions to take our campaign forward. The Union held a meeting of key FBU officials in Manchester in July 2011 as well as a series of further local consultation meetings over the summer of 2011 and again in early 2012 to seek the views of officials and members.

2.3 Survey of Members

The Union commissioned an independent survey by YouGov to assess FBU members' attitudes on the proposed reforms. A total of 7,931 members responded to the survey (18%) and gave the Union important information on issues such as opt out rates and attitudes to promotion.

2.4 Political Lobbying

FBU members and officials were asked to lobby their Member of Parliament (MP) on pensions and request support for Early Day Motion (2049) - firefighter pensions (see Appendix 2). Throughout the autumn of 2011 and winter 2011-12, Regional and Sectional FBU delegations lobbied MPs at Westminster and other national Governments.

2.5 Legal Action

The FBU, along with five other Trade Unions, challenged the Government's imposed change to the way pensions are increased to take account of inflation; from a practice using the RPI to one using CPI. This challenge was by way of Judicial Review and the hearing took place between 25 and 27 October 2011 at the High Court in London. This challenge was unsuccessful as was the subsequent appeal in March 2012. In rejecting the appeal the Court ruled that the Government was entitled to take into account the national economic situation when deciding to adopt CPI from this year. The Court also ruled that, even if the national economic situation had been discounted, the Government would still have the adopted CPI on the basis of the advice it had received. Given the grounds cited by the Court for its decision a further legal challenge to the House of Lords was not considered viable. Other potential legal challenges were explored through Thompsons however these challenges were not identified as having any chance of success.

2.6 Negotiations

The Westminster Government informed all stakeholders that there would be a series of high level generic talks with public sector Trade Unions focusing mainly on contribution rates before a process involving scheme specific negotiations would then be commenced. These took place through the Trades Union Congress (TUC). At a subsequent TUC discussion most other Unions opted for a progression to scheme specific talks in July 2011. The FBU raised concerns that any scheme specific talks would take place within unacceptable constraints since the key points of principle remained unresolved. However, once scheme specific talks began the Union naturally took part to represent our members' interests and we engaged in earnest with the English Fire Minister and the relevant ministers for fire in Northern Ireland, Scotland and Wales and their relevant Government officials.

2.7 Preparing For Action

On 14 September 2011, the FBU lodged a trade dispute across the UK (see Appendix 3).

2.8 Further Evidence

The FBU commissioned several reports designed to challenge the recommendations on practical, financial and medical grounds including:

- An independent report by Tony Cutler and Barbara Waine looking at the Independent Public Service Pensions Commission

- A scoping study: Review of aging and the demands on firefighting by Richard Graveling and Joanne Crawford on behalf of the Institute of Occupational Medicine

- A report on the impact of the Government's proposal for members of the Firefighters' Pension Scheme and the New Firefighters' Pension Scheme; by Rob Hammond of First Actuarial consultants

- Fitness for Work: Estimate of the deterioration of the aerobic fitness of firefighters with age, by Richard Graveling on behalf of the Institute of Occupational Medicine

- The FBU also submitted the Haisman report, originally produced for the Home Office, which concluded that the existing Normal Pension Age of 55 should remain.

The FBU produced *'Protecting good quality occupational pensions in the Fire and Rescue Service'*, which was submitted to the English Fire Minister and the relevant ministers for fire in Northern Ireland, Scotland and Wales to substantiate the unions' opposition to the proposals and contribution increases. The Union consistently emphasised that, not only were the proposals unfair to firefighters, but they would also make the schemes unworkable and unsustainable. Higher contributions would result in opt outs, wiping out the Treasury's projected financial savings. Expecting firefighters to work to 60 would be unworkable for the vast majority, leaving pension scheme members vulnerable and shattering the pension scheme itself. The FBU also submitted evidence to the LGPS consultation to defend and improve our Control members' pensions.

2.9 Department for Communities and Local Government (DCLG): Consultations

The FBU submitted our arguments and evidence at every stage of Government consultation, taking every opportunity to defend firefighters' pensions. The Union submitted documents to the Hutton interim report (2010), outlining the differences in the three fire service schemes, recent changes they had all undergone, contribution cost to employees, reduction in ill health retirements, and a brief outline of the role of a firefighter and why it was important that the pension scheme reflected the occupational nature of the job.

2.10 Processes and Consultation in Wales, Scotland and Northern Ireland

Pensions are matters which are largely devolved to the Governments of Wales, Scotland and Northern Ireland and the precise mechanisms for official consultation and dialogue differ between the different parts of the UK. However, whether as a result of financial threats and pressures placed upon them, or otherwise, each of the devolved administrations ultimately made the same proposals for the FPS and NFPS as the Westminster Government on each of the issues.

The FBU has argued that firefighter pensions should be broadly similar across the UK. We do the same job, face the same risks and challenges and frequently work alongside colleagues regardless of borders. There is a strong case that the occupational pension schemes should reflect this. The attack on public sector pensions has been ideologically driven by the Westminster government and it is clear from discussions with Ministers elsewhere that there is not universal support for this approach. Despite the possibility of separate arrangements within Wales, Scotland and Northern Ireland, none of the relevant Governments have so far adopted a position which addresses the concerns of the FBU. Therefore the trade dispute remains in place in all parts of the UK. The Executive Council has been keen to ensure a consistent approach by all officials in all parts of the UK and Head Office officials have worked with the Executive Council members for Regions 1, 2 and 8 to ensure this can be delivered. The pension's battle is a battle involving the entire Union and it is essential that nothing should be done which might weaken the campaign or strategy of the Union across the whole of the UK.

SECTION 3: OTHER PUBLIC SECTOR PENSION SCHEMES

3.1 Other Sectors

As Conference will be aware the attacks were not confined to the Fire Service. Attacks were made upon the pensions of most public sector employees. The Unions representing those employees tackled the proposed changes as hard and as professionally as they could. The outcomes of those negotiations have been reported in the media and by the Unions. By and large they have not yet been successful in moving the Governments to change their position on the major elements such as the normal pension ages, increases to employees' contributions and other detrimental changes.

3.2 LGPS

There are approximately 1,400 FBU Control members who are members of the LGPS. With 4.6 million members, the LGPS is the largest of all the public sector pension schemes. There are many Unions who have members within the LGPS and eleven TUC affiliated Unions (including the FBU) which participate in the LGPS Trade Union meetings. The three largest Unions involved (UNISON, UNITE and GMB) provide the negotiators for the Trade Union side for the scheme and obviously have the largest impact on negotiations and decision making.

The FBU has opposed the proposed attacks on members of the LGPS. At the same time the Union has sought to implement the Union's policy, which is that Control members should be granted access to a Fire Service specific pension scheme. This has been raised throughout the discussions with Government on pensions over the past year. Nevertheless, there remain significant obstacles to achieving this policy aim. The Union has therefore pursued a parallel strategy of opposing detrimental changes within the LGPS, especially in relation to proposals to increase employee contributions or normal pension age.

SECTION 4: INDUSTRIAL ACTION

Conference will be aware of the industrial action taken by a number of public sector Unions, including action taken on 30 June 2011 and 30 November 2011.

Throughout the campaign, the Executive Council has continued to inform and consult officials and members through our committee structures on the developments and strategic decisions that have been required. Conference will be aware of the positions taken by the Executive Council at various stages during the negotiations in respect of industrial action.

The FBU has been clear throughout the negotiations with all the ministers that we would initiate strike action if we did not feel there was sufficient progress within the talks, or if there were any immediate step to impose change. Ministers were in no doubt on the FBU's position.

The FBU has attended all meetings of the TUC's Public Services Liaison Group (PSLG) to give reports on progress with other TUC Unions.

We have met with ministers and/or lead civil servants in a variety of different forums across all the administrations to discuss and negotiate on the pension changes.

While it is clear that the pensions campaign is far from over, there have been a number of movements on the part of Government (for example on the cost ceiling, on accrual rates and on contribution increases) which have so far meant that we have not had to call for industrial action. Nevertheless the trade disputes remain in place and industrial action may still be necessary.

SECTION 5: THE OUTCOME SO FAR

5.1 Cost Ceiling

Other Unions had requested information on their specific schemes' "cost ceiling" while the FBU took an alternative approach and informed Government that there were specific occupational factors associated with the role of a firefighter that would have to be considered before this was done. The English Fire Minister wrote to the FBU in this period confirming that due to the evidence we had submitted the decision to set a cost ceiling for the firefighter scheme would be delayed to allow further consideration to take place. This delay has meant that the fire scheme talks are working to different timescales to those of other public service Unions. This was one of the reasons why the FBU did not proceed to ballot in autumn 2011.

The position was different for the LGPS. The FBU could not accept the heads of agreement for the LGPS scheme in January 2012, after consultation with the Control Staff National Committee (CSNC) and its officials. The Union argued that Control members could not be expected to work until 68 and that the protection for low paid workers offered was not relevant in the Fire Service.

5.2 'Heads of Agreement'

When the 'Heads of Agreement' for the firefighter scheme was finally published in February 2012, the Executive Council took a decision that it was fundamentally unacceptable for three main reasons:

- Unaffordable and unfair contribution rates
- A totally unrealistic retirement age for Firefighters
- An unsustainable scheme for the Fire Service.

The FBU did not accept that the document was a final 'Heads of Agreement'. A more accurate description was that it simply reflected the Government's current proposals. However, the document did reflect that Government had taken cognisance of some of the concerns the FBU had raised. The amended proposals included the highest cost ceiling in the public sector. This resulted from the delays which were implemented while 'special occupational' factors and actuarial calculations presented by the FBU were being considered. It did contain improvements on earlier versions and meant that the proposed 2015 firefighter pension scheme had the best starting point on accrual rates with 57ths rather than the 60ths included in other schemes. It also included some limited protection for older firefighters, but only in return for higher contributions. There were other areas included such as options for earlier retirement with reduced benefits from age 57 and even more severe actuarial reductions from age 55. Despite these limited concessions the FBU emphasised that the overarching issue of a workable Normal Pension Age remained unresolved making decisions on subsequent issues impossible and impractical at this stage.

5.3 Two Reviews

The Westminster Government also committed itself to two important reviews:

- A review of the impact of any 2012-13 contribution changes and the effects of opt outs before any decision on how future increases would be delivered

- A review of the Normal Pension Age - considering if the Normal Pension Age of 60 remains relevant taking account of the economical, efficient and effective management of the Fire Service, the changing profile of the workforce and the occupational demands of, and fitness standards for, firefighting roles.

These two reviews marked a shift from the earlier position which stated that the Normal Pension Age would be 60 and that the employee increase would be on average 3.2% by 2014/15. The terms for reference for both reviews were presented to and agreed by the Firefighters' Pension Committee, held on 28 March 2012. The two reviews do not in any way guarantee success or that the Westminster Government policy will shift at all. However, they do open up potential mechanisms by which these key elements of the Westminster Government's current proposals can be changed before the final scheme design is decided. The Executive Council is confident that we have extremely strong arguments and evidence on a number of key issues such as pension age, the level of employee contributions and the danger of opt-outs.

5.4 Year One Contributions

On 29 March 2012 Westminster Government released information about firefighter pension contributions for 2012-2013. The FBU was informed that as a result of the evidence presented, the originally proposed increases have been reduced by approximately 50%. While we must emphasise that any increase is an unwelcome step against the backdrop of a pay freeze and high rates of inflation, we must also recognise that these represent the lowest rates of employee contribution increase of any of the unfunded schemes in the public sector.

5.5 Executive Council Decision and Statement, 29 March 2012

The Executive Council met on 29 March 2012 and considered the implications of these increases alongside the other developments in our pension discussions and agreed the following statement:

> *The Executive Council has met today to discuss developments on pensions.*
> *The Executive Council acknowledges that the year one (2012-2013) employee contribution increases for the Firefighters' Pension Scheme and the New Firefighters' Pension Scheme are significantly reduced compared to those originally proposed in public consultation. The Executive Council also acknowledges the terms of reference and timescales for the Review of Opt-Outs and Review of Normal Pension Age and that these have now been endorsed by the Firefighters Pensions Committee. The Executive Council recognises that these reviews offer a potential mechanism for addressing some of the key occupationally specific concerns for pensions in the Fire and Rescue Service.*
>
> *We are extremely disappointed that firefighters' pension contribution rates have been increased at all against the backdrop of the highest employee*

contribution rates in public sector schemes already being paid by firefighters and on top of nearly three years of pay freeze. We are also disappointed that these increases have been introduced in advance of the review of opt outs.

However, the Executive Council sees the reduced level of increases as an indication that the Westminster Government has, to some degree at least, listened to the representations being made by the FBU.

In the light of these latest developments, the Executive Council recommends that there should be no immediate move towards a strike ballot and that the Union should:

1. *Take full part in the two Fire Service reviews (of Opt-outs and of Normal Pension Age).*
2. *Produce and develop further evidence to support our case within each review process and in other areas of continuing pension discussions*
3. *Continue to lobby relevant politicians.*
4. *Monitor on-going developments.*
5. *Continue to discuss with and support other Unions involved in campaigning to defend pensions.*

All members are asked to monitor these developments closely and to ensure their views are made known through our branch and committee structure. Our concerns over proposals for our pensions remain unchanged and therefore the lawful trade dispute with the four governments in the UK remains live. The Executive Council will be immediately reconvened in the event of any further significant developments ahead of the reviews and will in any case meet regularly to review progress.

Recommendation:

Conference applauds the determined support of officials and members throughout the UK in the on-going campaign to defend our pensions and the ultimate resolve our membership have consistently indicated in support of national industrial action should it become necessary at any stage. We also acknowledge the hard work and professional approach coordinated and represented by our brigade, regional and national officials to date. Conference endorses this policy statement and supports the next steps of the Union's campaign, as set out in the Executive Council statement of 29 March 2012.

Appendices – FBU resolutions

Appendix 1: EXECUTIVE COUNCIL MODEL RESOLUTION FOR BRANCHES

DEFENDING SERVICES, JOBS, PAY AND PENSIONS

This Branch applauds the success of the TUC demonstration on March 26 against cuts and austerity.
We remain completely opposed to the huge cuts proposed for our Fire and Rescue Service and other public services as a result of the Comprehensive Spending Review in October 2010. For the Fire and Rescue Service this cuts agenda will mean fewer firefighters and will undermine our ability to respond as quickly and effectively to emergencies or to engage professionally in protection or prevention work. This will inevitably increase risks to the public and to Firefighters. In the case of the Fire Service: CUTS COST LIVES.
This branch condemns:

- The national employers' refusal to make a pay offer for 2010 or 2011
- The cuts to fire cover
- Attacks on our shifts and conditions of services
- The attacks on public sector pension schemes including those in the fire service

ATTACKS ON PENSIONS
We note that there are currently three attacks on our pensions:

1. The change to indexation of pensions by the use of CPI instead of RPI
2. The proposed increase in contribution rates from April 2012 which is simply a raid on our pension schemes to raise money to pay off government debt
3. The scrapping of all existing schemes by 2015 and their replacement by new imposed schemes based on:

a) Removal of the final salary basis of our pensions
b) Introducing new (worse) accrual rates
c) Increasing retirement ages in the LGPS and FPS
d) Refusing a reduction in the normal retirement age for members of the NFPS
e) Introducing new and as yet unspecified employee contribution rates
We support the decision by the Executive Council to mount a legal challenge against the change from RPI to CPI and its position to mount a legal challenge against any aspect of these attacks where our lawyers advise there is a reasonable prospect of success.
We commit to give financial and moral support to members of those unions who have already balloted to take industrial action starting with the coordinated strike on June 30.
This branch notes that despite efforts by the FBU, by other unions and by the TUC to negotiate on these issues, government Ministers are intent on forcing changes through without agreement.
This branch therefore supports:

1. The decision of FBU conference to prepare for national strike action.
2. A ballot for such action as soon as the Executive Council concludes this step is necessary.
3. Steps to coordinate such industrial action with other unions where appropriate.

Appendix 2: Early Day Motion (2049)

That this House acknowledges that firefighters currently pay 11 per cent. of their salary into an unfunded pension scheme; is concerned by the Government's proposal for a 3.2 per cent. increase in firefighters' pension contributions at a time when they are in the second year of a pay freeze and the cost of living is rising; notes the findings of a recent YouGov survey of around 8,000 firefighters, which found that over a quarter of respondents would be likely or very likely to opt out of the pension scheme if the Government's proposal were implemented, with nearly one in eight very likely to opt out; further notes that the Treasury's forecast of 72.6 million savings over three years from this reform is based on an opt-out rate of one per cent. and that everyone per cent. opt out would cost the scheme 3.5 million per annum in lost contributions; shares the Fire Brigades Union's concern that an opt-out rate of seven per cent. or over would nullify the Government's projected savings and that the 27 per cent. opt-out rate indicated in the survey could result in a net loss of 210 million; believes that the proposed

increase is self-defeating and would destabilise the firefighters' pension scheme; and calls on the Government to withdraw its proposal for firefighters to pay additional pension contributions.
(To date April 2012, this has been signed by 113 MP's)

Appendix 3: TRADE DISPUTE: PENSIONS IN THE FIRE SERVICE

On 14 September 2011 the FBU lodged a trade dispute across the UK which included the following:

I refer to the proposals in relation to public sector pensions including pensions in the fire service such as the respective Firefighters Pension Schemes, New Firefighters Pension Schemes and Local Government Pension Schemes.

Changes to pension schemes in the fire service are matters for ministers and I have written to the relevant ministers accordingly. I attach the text of that letter which should be self explanatory.

I make it clear in that letter that, on behalf of FBU members nationally, we have consistently opposed the proposals on pensions and that our members throughout the UK require the following amendments applicable to pension schemes in the fire service as the only amendments concerning those schemes:

1 Amendments to ensure that all members covered by the Grey Book are entitled to be members of the relevant Firefighters Pensions Scheme/New Firefighters Pension Scheme.

2 Amendments to ensure that the normal retirement age for firefighter members is that applicable in the relevant Firefighters Pensions Scheme.

3 Amendments to secure RPI as the basis for increasing pensions in the fire service.

I also set out in the letter the application and impact of these requirements which should be clear.

You will note that our members require the amendments set out applicable to pension schemes in the fire service as the only amendments concerning those schemes. Unless and until the relevant ministers exercise the statutory powers they have to make those amendments and no others, a trade dispute exists with those ministers which is deemed by statute to be a trade dispute with Fire and Rescue Authorities/Boards as the relevant employers.

To be clear this trade dispute will be resolved if the relevant ministers make all of the amendments required to meet all three points on pensions as the only amendments to the pension schemes referred to. Once all of those requirements on pensions have been met there will be no need to proceed with the ballot or industrial action.