

21 November 2014

Andrew Cornelius
Department for Communities and Local Government
The Firefighters' Pension Team
SE quarter
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London

Dear Andrew

Firefighters' Pension Scheme 2015: Proposals for new governance arrangements – Consultation

Further to the consultation paper and draft regulations issued by DCLG on 10 October 2014.

Thank you for the opportunity to comment on the draft proposals on the new governance arrangements in the Firefighters Pension Scheme. As you may know, CIPFA, via the Pensions Panel, has long had an interest in the governance arrangements in public sector pension schemes and has over the years provided guidance to public sector pension practitioners on various aspects of the governance framework, including knowledge and skills requirements, risk management and investment decision-making in the funded Local Government Pension Scheme (LGPS). Consequently we have a strong professional interest in how the requirements of the Public Service Pensions Act 2013 will impact upon the governance arrangements for the Firefighters' Pension Scheme.

Our overall conclusion is that we are pleased to see that the regulations have been framed in such a way as to allow funds the maximum possible flexibility to implement the requirements of the Public Service Pensions Act in such a way that suits their own local circumstances. However we have found that some form of implementation guidance to accompany the regulations would be welcomed by the authorities responsible for setting up local pensions board. By way of example to complement the regulations in the LGPS, a group consisting of CIPFA, the LGA, practitioners and other stakeholders is currently involved in the development of substantive supporting guidance to assist practitioners in implementing these regulations.

We do have some comments on several of the questions posed in the consultation paper and these are set out in the attached Annex A.



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I hope these comments are a useful contribution to the development of the Regulations. If you would like to discuss further any of the points raised, please do not hesitate to contact CIPFA via the Pensions Panel Secretary, Nigel Keogh, at nigel.keogh@cipfa.org.

Yours sincerely

Bob Summers
Chair, CIPFA Pensions Panel

Annex A

Question 2

Do you have any comments on the terms of the local pension boards or Scheme Advisory Board as set out in regulations?

We would raise the question as to whether there is the potential for conflict between the terms expressed in regulation 4A (2) and 4A (3).

If it is the role of the scheme manager to determine the procedures applicable to a local pension board, does the power of the local pension board "to do anything which is calculated to facilitate, or is conducive or incidental to, the discharge of any of its functions" give rise to a potential conflict with the role of the scheme manager with regard to the operation of the board? Regulation 4A(3) could be amended to make it clear the powers of the local pension board do not extend to over-riding board procedures which have been determined by the scheme manager.

Question 3

Are there other powers or requirements that should be put in place for local pension boards or the Scheme Advisory Board?

Paragraph 3.7 of the consultation paper makes reference to the fact that "is possible that the local pension board will look to obtain specialist professional advice, for instance actuarial, and the scheme manager may wish to provide an annual budget to the board for such instances".

As with all aspects of local government, fire authority resources are under intense pressure and in the absence of specific provision in the Regulations for the local pension board to have some form of funding, securing resources on an ad hoc basis may prove unsuccessful. The Regulations might therefore benefit from some consideration of provision for a formal budget creation, consideration and setting process. The Department may also wish to consider amending Regulation LA1(3) of the Firefighters' Pension Scheme (Amendment) (England) Order 2006 to permit any such costs associated with the operation of the local pension board to be debited to the Firefighters' Pension Fund account (this would bring the Firefighters' Pension scheme regulations into line with those for the LGPS, where the costs of the local pensions board are treated as a scheme cost).

Question 4

Should the regulations be more, or less prescriptive about potential members of the local pension boards or the Scheme Advisory Board?

We note that the draft proposals (and subsequent draft regulations) restrict member representation on the local pensions board only to those in scheme employment. Given that deferred and pensioner members will clearly have an interest in the governance of the scheme, their exclusion from consideration for membership of the local pension board would seem to conflict with the findings of the Hutton Commission which

concluded “that scheme members in all the public services should be able to nominate persons to pension boards and committees along similar lines to the rights of members in the private sector to nominate persons to sit on boards of trustees”.

Given that there is no clear rationale for restricting board membership to active members only, we would ask that this restriction be reconsidered. Alternatively the regulations should set out how deferred and pensioner member interests would be represented on the board if the restriction were to remain.

We also note that Regulation 4B(2) requires the scheme manager to be satisfied that employer and member representatives appointed to a local pension board have the relevant experience and the capacity to perform their respective roles. We recognise that there is a risk that without such pre-conditions, appointees to the board may not have capacity to undertake the duties and responsibilities required of pension board members, and that this in turn may impact upon the effectiveness of the board. However the terms “experience” and “capacity” are imprecise and in the absence of further definition could possibly lead to varying interpretations of their precise meaning in this context by both scheme managers setting up the board and potential board members. Given these reservations, we would suggest that ensuring that those appointed to boards are capable of the task could be left to local flexibility, supported by central guidance.

Question 5

Is there an alternative funding mechanism for the Scheme Advisory Board which could be put in place rather than raising funds from scheme managers with the Secretary of State ensuring that the Board is delivering value for money?

The current proposals allow for the Scheme Advisory Board to raise money from scheme managers to fund its activities. However given that the Board will be directly appointed by and be accountable to the Secretary of State, and it is the intention that it will be the responsibility of the Secretary of State to ensure that the Board is delivering value for money, the Department should consider funding the costs of the Scheme Advisory Board centrally. Such an arrangement would be better suited to the proposed lines of accountability and would remove a potential additional financial burden on already limited fire authority resources.

We would also add that the Regulations could be strengthened regarding the financial administration of the Board. In particular we note that the Regulations:

- do not stipulate the timetable for the submission of the budget by the Board to the Secretary of State
- do not stipulate the date by which the budget must be agreed by the Secretary of State
- do not provide for a mechanism for the resolution of disputes where the Board and Secretary of State are unable to agree a budget by a certain date

Given that both the Board and the fire authorities (or DCLG, if central funding is adopted) will both need to budget accordingly, some certainty around the timetable etc. for the budgetary process would be welcome.

We would also note that the Regulations make no reference to fire authorities forming part of the budgetary approval process. If it is the case that these authorities will be bearing the costs of the Board, funds should have some part in that approval process, perhaps through a Board budgetary sub-committee where authorities are represented.